

**Minutes of 1065th Meeting of the
Town Planning Board held on 15.8.2014**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Thomas C.C. Chan

Chairman

Mr Stanley Y.F. Wong

Vice-Chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Dr W.K. Yau

Ms Bonnie J.Y. Chan

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr Stephen H.B. Yau

Mr F.C. Chan

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection
Mr C.W. Tse

Deputy Director of Lands
Mr Jeff Y.T. Lam

Chief Engineer (Works),
Home Affairs Department
Mr Frankie W.P. Chou

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Miss Winnie M.W. Wong

Director of Planning
Mr K.K. Ling

Deputy Director of Planning/District
Mr Raymond K.W. Lee

Secretary

Absent with Apologies

Mr Laurence L.J. Li

Ms Anita W.T. Ma

Professor K.C. Chau

Mr Ivan C.S. Fu

Ms Janice W.M. Lai

Mr H.F. Leung

Dr Eugene K.K. Chan

Mr Francis T.K. Ip

In Attendance

Assistant Director of Planning/ Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board
Ms Lily Y.M. Yam (a.m.)
Mr Louis K.H. Kau (p.m.)

Senior Town Planner/Town Planning Board
Mr J.J. Austin (a.m.)
Ms Doris S.Y. Ting (p.m.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1064th Meeting held on 1.8.2014

[The meeting was conducted in Cantonese.]

1. The minutes of the 1064th meeting held on 1.8.2014 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

- (i) Draft Lai Chi Wo, Siu Tan and Sam A Tsuen Outline Zoning Plan No. S/NE-LCW/E - Further Consideration of a New Plan

MA Paper (i)

2. The Secretary said that the MA Paper was to follow-up the Board's decision to revise the boundary of the "Village Type Development" ("V") zone on the draft Lai Chi Wo, Siu Tan and Sam A Tsuen Outline Zoning Plan (the draft OZP) No. S/NE-LCW/D and to report further submission from the Village Representatives (VRs) of Mui Tsz Lam, Lai Chi Wo Village, Kop Tong and Sam A Tsuen.

Revision of the Western Boundary of the "V" zone in Lai Chi Wo Village

3. On 1.8.2014, the Board gave further consideration to the draft OZP No. S/NE-LCW/D (TPB Paper No. 9702) and some Members expressed concern on a strip of woodland zoned as "V" directly abutting on the Lai Chi Wo Special Area (the Special Area). In order to better conserve the Special Area, the Board directed that the concerned strip of land should be rezoned from "V" to "Green Belt" ("GB") to serve as a buffer between the Special Area and the proposed "V" zone.

4. On the revised draft OZP No. S/NE-LCW/E, an area of about 0.12 ha between the Special Area and the village development had been rezoned from “V” to “GB”. As a result of the amendment, the area covered by the “GB” zone would be enlarged from 95.07ha to 95.19ha while the area covered by the “V” zone would be reduced from 6.04ha to 5.92ha.

5. The Explanatory Statement (ES) of the draft OZP No. S/NE-LCW/E had also been revised correspondingly.

VRs' Concerns and Proposals

6. On 31.7.2014, the VRs of Mui Tsz Lam, Lai Chi Wo Village, Kop Tong and Sam A Tsuen emailed a letter dated 28.7.2014 to the Board raising their objection to the draft OZP. On 6.8.2014, during the Heung Yee Kuk meeting with the Planning Department (PlanD), the VRs submitted the same objection letter with the villagers' signatures and land use proposals to PlanD.

7. The main concerns of the VRs were essentially the same as those raised by the Sha Tau Kok District Rural Committee and the North District Council detailed in paragraph 3.1 of TPB Paper No. 9702 which was considered by the Board on 1.8.2014.

8. Members agreed to the revised boundary of the “V” and “GB” zones and the revised ES. Members also agreed to note the submission from the VRs of Mui Tsz Lam, Lai Chi Wo Village, Kop Tong and Sam A Tsuen.

[Messrs. C.W. Tse and H.W. Cheung arrived to join the meeting at this point.]

(ii) New Judicial Review Against the Decision of the Town Planning Board to gazette the Draft Kwai Chung Outline Zoning Plans No. S/KC/27 & S/KC/28 (HCAL 91/2014)

9. The judicial review (JR) application was lodged by Tung Chun Company

Limited (the applicant) with Ove Arup & Partners Hong Kong Ltd. (ARUP) as consultants. The following Members had declared interests in this item:

Professor S.C. Wong)	
Mr Ivan C.S. Fu)	had current business dealings with ARUP
Mr Dominic K.K. Lam)	
Mr Patrick H.T. Lau)	
Ms Janice W.M. Lai	-	her spouse owned a flat in Wonderland Villas which fell within Kwai Chung OZP
Mr Clarence W.C. Leung	-	owned an office in Kwai Chung

10. As the item was mainly to report the JR application, the meeting agreed that the above Members should be allowed to stay in the meeting. Members also noted that Mr Ivan C.S. Fu and Ms Janice W.M. Lai had tendered apologies for not attending the meeting and Professor S.C. Wong, Mr Dominic K.K. Lam, Mr Patrick H.T. Lau and Mr Clarence W.C. Leung had not yet arrived.

11. The Secretary reported that on 8.8.2014, a JR application was lodged by the applicant against the decision of the Town Planning Board (the Board) made on 9.5.2014 and 13.6.2014 to gazette the draft Kwai Chung Outline Zoning Plans No. S/KC/27 (OZP 27) and No. S/KC/28 (OZP 28) under section 7 of the Town Planning Ordinance (TPO) with identical restrictions in relation to the “Comprehensive Development Area” (“CDA”) at Cheung Wing Road, Kwai Chung (the Site) introduced by the draft Kwai Chung OZP No. S/KC/26 (OZP 26). The Site was subject to a maximum plot ratio of 6.36 and a building height restriction (BHR) of 120mPD. The relevant Notice of Application (Form 86) had been dispatched to Members before the meeting.

12. The amendments introduced on OZP 27 & OZP 28 actually did not relate to the Site. However, the applicant took the view that the new draft OZP 27 & OZP 28 superseded the previous draft OZP 26 (which was the subject of a related JR - HCAL 9/2013) and had become the relevant plans for the purpose of section 16(1)(d) of the Buildings Ordinance (BO) in approving building plans. OZP 27 and OZP 28 had thus rendered the related JR on OZP 26 meaningless. The Applicant therefore lodged the new JR to safeguard its position.

13. The related JR (HCAL 9/2013) was lodged by the same applicant on 11.1.2013 against the Board's decision on 12.10.2012 not to propose amendments to OZP 26 to meet its representation for the same Site. The representation proposed to remove the BHR or to relax it from 120mPD to 169mPD for the Site.

14. On 12.8.2014, the Court granted leave to the JR application and ordered that the JR be heard together with the substantive hearing of the related JR (HCAL 9/2013). The consolidated hearing had been fixed for 6.5.2015. The Court also granted an interim stay of submission of draft OZP 27 and OZP 28 to the Chief Executive in Council pending the determination of this JR or further order of the Court.

15. Members agreed that the Secretary would represent the Board in all matters relating to the JR in the usual manner.

(iii) Town Planning Appeal Decision Received

Town Planning Appeal No. 3 of 2013 (3/13)

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Agriculture” Zone, Lot 2316 s.A in D.D. 116, Tai Tong, Yuen Long

(Application No. A/YL-TT/307)

16. The Secretary reported that an appeal decision was received from the Appeal Board Panel (Town Planning). The appeal was lodged by the Appellant on 18.3.2013 against the decision of the Town Planning Board (the Board) to reject on review an application (No. A/YL-TT/307) for the proposed House (NTEH/Small House) at Lot 2316 s.A in D.D. 116, Tai Tong, Yuen Long. The appeal site was zoned “Agriculture” (“AGR”) on the approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16.

17. The appeal was heard by the Town Planning Appeal Board (TPAB) on 21.5.2014 and dismissed on 31.7.2014 mainly on the following considerations:

- (a) the application's inconsistency with the planning intention of the “AGR” zone, which was an important consideration against the application;

- (b) the proposed development did not comply with the Interim Criteria for assessing planning applications for NTEH/Small House development (the Interim Criteria) in that the site of the proposed Small House was not in nor straddled any “Village Type Development” (“V”) zone or within any village ‘environs’ at all; there were no exceptional circumstances as set out in the Interim Criteria (e.g. the site had a building status under the lease); and the proposed development would frustrate the planning intention of the “AGR” zone as the Director of Agriculture, Fisheries and Conservation advised that the site and its surroundings had high potential for agricultural rehabilitation;
- (c) the Appellant failed to demonstrate that there had been other approvals of planning applications reflecting a significant departure from the planning intention of an OZP or from the Interim Criteria, or that thereby the Appellant had not been treated fairly; and
- (d) no significant circumstances had been demonstrated to sufficiently outweigh the above considerations against the application.

18. A copy each of the Summary of Appeal and the TPAB’s decision had been sent to Members for reference.

(iv) New Town Planning Appeal Received

Town Planning Appeal No. 6 of 2014 (6/14)

Proposed Temporary School (Kindergarten and Nursery) for a Period of 3 Years in “Residential (Group C) 1” zone, 22 Kent Road, Kowloon Tong

(Application No. A/K18/305)

19. The Secretary reported that an appeal was received by the Appeal Board Panel (Town Planning) on 4.8.2014 against the decision of the Town Planning Board (the Board) on 16.5.2014 to reject on review an application for a proposed temporary school (kindergarten and nursery) for a period of 3 years at 22 Kent Road, Kowloon Tong. The

site was zoned “Residential (Group C)1” (“R(C)1”) zone on the draft Kowloon Tong Outline Zoning Plan No. S/K18/18. The application was rejected by the Board for the following reasons:

- (a) the proposed development at the junction of Kent Road and Cornwall Street and near Kowloon Tong MTR Station with busy traffic could not comply with the Town Planning Board Guidelines No. 23A in that possible adverse traffic impacts on local roads were anticipated and there were uncertainties on the effectiveness of the proposed traffic mitigation measures to mitigate the impacts; and
- (b) the traffic congestion problem in the area was already serious. The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would aggravate the traffic congestion of the Kowloon Tong area.

20. The hearing date of the appeal was yet to be fixed. Members agreed that the Secretary would represent the Board on all matters relating to the proceedings of the Appeal Board Panel (Town Planning) in the usual manner.

Appeal Statistics

21. The Secretary reported that as at 15.8.2014, 15 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	31
Dismissed	:	132
Abandoned/Withdrawn/Invalid	:	180
Yet to be Heard	:	15
Decision Outstanding	:	2
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Total	:	360

(v) [Closed Meeting]

22. This item was recorded under confidential cover.

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations and Comments to the draft Tin Fu Tsai Outline Zoning Plan
No. S/TM-TFT/1

(TPB Paper No. 9723)

[The hearing was conducted in Cantonese.]

Presentation and Question Sessions

23. The Chairman said that reasonable notice had been given to the representers/commenters to invite them to attend the hearing. However, some of the representers and commenters had either indicated not to attend the meeting or made no reply. Members agreed to proceed with the hearing in the absence of these representers/commenters.

24. The following Government representatives, the representers and their representatives were invited to the meeting at this point:

- | | |
|----------------------|--|
| Mr C.C. Lau | - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TMYLW), Planning Department (PlanD) |
| Mr K.C. Kan | - Senior Town Planner/Tuen Mun (2) (STP/TM2), PlanD |
| Mr Philip W.K. Chung | - Senior Engineer/New Territories West (1), Water Supplies Department (WSD) |
| Mr Anthony M.C. Luk | - Senior Engineer/Planning (2), WSD |
| Mr Robin Y.F. Law | - Engineer/Planning (6), WSD |

- Mr Kelvin Y.T. Kwok - Senior Chemist (2), WSD
- Mr Johnson M.K. Wong - Senior Environmental Protection Officer (Strategic Assessment) 2, Environmental Protection Department (EPD)
- Mr K.W. Cheung - Senior Nature Conservation Officer (North), Agriculture, Fisheries and Conservation Department (AFCD)
- Ms Judy C.Y. Kong - Nature Conservation Officer (Tuen Mun), AFCD

R3 (Designing Hong Kong Limited)

- Ms Debby Chan - Representer's representative

R618 (Ms Janice Cheng)

- Ms Janice Cheng - Representer

R3896 (WWF-Hong Kong)

- Mr Andrew Chan) Representer's representatives
- Mr Tobi Lau)

R3897 (Kadoorie Farm & Botanical Garden Corporation)

- Dr Chiu Sein Tuck) Representer's representatives
- Ms Woo Ming Chuan)

R3898 (田夫仔村代表蔡龍威先生)

- Mr Tsoi Lung Wai - Representer

25. The Chairman extended a welcome and explained the procedure of the hearing. He then invited PlanD's representatives to brief Members on the background of the representations.

26. With the aid of a Powerpoint presentation, Mr K.C. Kan, STP/TM2, made the following main points as detailed in the Paper:

Background

- (a) on 20.12.2013, the draft Tin Fu Tsai Outline Zoning Plan No. S/TM-TFT/1 (the draft OZP) was exhibited for public inspection under section 5 of the Town Planning Ordinance (TPO);
- (b) during the 2-month exhibition period, a total of 3,902 representations were received. The representations were subsequently published for public comments and, in the first 3 weeks of the publication period, 2 comments were received;
- (c) on 18.7.2014, the Town Planning Board (the Board) decided to consider the representations and comments collectively in one group. Representer R800 subsequently informed the Board that he had never submitted the representation. In this regard, the number of valid representations in respect of the draft OZP should be 3,901;

The Representations

- (d) 2 representations (R1 and R2) submitted by individuals were in support of the current extent of the “Village Type Development” (“V”) zone on the draft OZP;
- (e) 2 representations submitted respectively by the village representative (VR) of Tin Fu Chai (R3898) and the Tuen Mun Rural Committee (TMRC) (R3899) opposed the insufficient “V” zone for Small House developments on the draft OZP;
- (f) 6 representations submitted by environment-concern groups including Designing Hong Kong Limited (DHKL) (R3), Friends of Sai Kung (R14), The Conservancy Association (R3895), WWF-Hong Kong (R3896), Kadoorie Farm and Botanical Gardens Corporation (KFBGC) (R3897) and Save Our Country Parks (SOCP) (R3902) mainly opposed the designation of “V” zone on the draft OZP or the OZP in general;
- (g) the remaining 3,891 representations (R4 to R13, R15 to R799, R801 to

R3894, R3900 and R3901) were submitted by other organisations or individuals in the form of standard submissions (some with individual views) raising adverse views on the draft OZP;

Grounds of Representation and Representers' Proposals

Supportive Representations

- (h) the main grounds of the supportive representations (R1 and R2) were summarised as follows:

Extent of "V" zone

- (i) expanding the "V" zone would put excessive pressure on the carrying capacity of the Tin Fu Tsai area in terms of sewage control and road usage by vehicles; and
 - (ii) controlling sewage was especially important as Tin Fu Tsai was located within the water catchment area;
- (i) the representers proposed that the "Green Belt" ("GB") zone should be rezoned to "Conservation Area" ("CA") to safeguard against excessive Small House developments as the vegetation around the "CA" zone was an integral part of the bigger forest ecosystem;

Adverse Representations

- (j) the main grounds of the adverse representations from the villagers (R3898 and R3899) were summarised as follows:

Extent of "V" zone

- (i) the area within the "V" zone was insufficient for Small House developments. The "V" zones were small and dispersed and were

meaningless as they only covered lots with house/building status. In general, the old house lots were small (about 200-300 ft²) and villagers could not build standard New Territories Exempted Houses (NTEHs) (700 ft² built-over area) on these sites; and

- (ii) given the current advanced water treatment technology, it was unfair to restrict village type development on the grounds of protecting water quality and resources;
- (k) the villagers (R3898 and R3899) proposed that the “V” zone should be enlarged to meet the forecast Small House demand;
- (l) the main grounds of the adverse representations from the environment-concern groups, other organisations and individuals (R3 to R799, R801 to R3897 and R3900 to R3902) were summarised as follows:

Extent of “V” zone

- (i) Tin Fu Tsai was located within the upper water gathering grounds (WGG) of Tai Lam Chung Reservoir. Village type developments would pollute or increase the risk of pollution to the WGG and potable water resources. There were signs that sewage discharged from other village type developments was already polluting watercourses. Private “village development rights” should not be allowed to override the public interest and rights of the authorities to protect and manage the WGG;
- (ii) the area was faced with infrastructure constraints. Roads through Tai Lam Country Park leading to Tin Fu Tsai were narrow and winding. Permitting village type developments would increase vehicular traffic and pose tremendous danger to country park visitors (including hikers and mountain bikers on the mountain bike trail). The Tin Fu Tsai area was not served by public fresh or salt water supply, drainage, or sewerage;

- (iii) the 10-year Small House demand forecast was arbitrary and unverified. The crucial factor for consideration was need, not demand. Indigenous villagers' housing need in the enclave was minimal or practically non-existent;

Protection of country parks and enclaves

- (iv) any development within enclaves would affect the ecological, landscape and recreational value of the surrounding country parks. The Director of Agriculture, Fisheries and Conservation (DAFC) and the Country and Marine Parks Board (CMPB) should have control over the development and management of the enclaves (such as patrol and strict enforcement over illegal or unauthorised activities);
- (v) the objective of the country park enclave policy was to protect the country park enclaves against immediate development threats from incompatible developments. However, most of the OZPs prepared for the enclaves had included expanded "V" zones that would cause immediate development threats, contradicting the original policy objective and failing to comply with the International Convention on Biological Diversity; and
- (vi) country parks and their enclaves should be protected against the invasion of Small House and residential developments, causing chaotic village developments and adverse environmental impacts. Housing shortage should be solved not by developing country parks but by other means, such as redevelopment of old/obsolete buildings and brown-field sites, taking back of golf courses and control of population growth/immigration;
- (m) the proposals from the environment-concern groups, other organisations and individuals were summarized as follows:

Extent of “V” zone

- (i) permission for Small House developments in the Tin Fu Tsai area should no longer be granted in order to safeguard the quality and security of water supply. House redevelopment in the area should require approval from DAFC, CMPB, the Director of Water Supplies (DWS) and the Board and all “V” zones in Tin Fu Tsai should be rezoned to “GB” so that planning permission would be required for village house development;
- (ii) “V” zones in Tin Fu Tsai should be limited to the lots occupied by existing inhabited houses, existing building lots, or existing structures plus a reserve for approved Small House applications only;

Enhancing development control

- (iii) except the existing developed areas and buildings, all land zoned “GB” should be rezoned to “CA” as the “GB” zone could not sufficiently protect the area against developments;
- (iv) the “CA” zone should be extended towards the north and northwest to cover the secondary forest for integration with the Tai Lam Country Park. The “CA” zone should cover streams and their riparian areas to prevent water pollution caused by potential expansion of war game areas. An ancestral hall located at the fringe of the *fung shui* woodland should be rezoned from “V” to “CA”;
- (v) for the Notes of the “V” zone, ‘House (NTEH only)’ should be moved from Column 1 to Column 2 so that planning permission should be required;
- (vi) for the Notes of the “GB” zone, ‘House’ should be deleted from Column 2 so that no new house would be permitted;

- (vii) for the Notes of the “CA” zone, ‘House (Redevelopment only)’ in Column 2 should be deleted;
- (viii) for all zonings, ‘Agriculture Use’ should be moved from Column 1 to Column 2 to prevent “destroy first, build later” situations and to ensure that tree felling, drainage works, filling or excavation of land would require planning permission;
- (ix) no new road should be constructed to the country park enclaves that were currently not served by roads;
- (x) layout plans should be prepared with public consensus and in collaboration with stakeholders and concern groups;

War game areas and environmental destruction

- (xi) enforcement action should be taken against the war game areas in Tin Fu Tsai. In addition, effective actions should be taken to prevent and enforce against “destroy first, build later” activities and environmental destruction in rural areas in general;

Incorporation into country park

- (xii) country park enclaves should be incorporated into country parks;
- (xiii) the validity period of the Tin Fu Tsai Development Permission Area (DPA) Plan should be extended for 1 year to allow the incorporation of the enclave into the country park. The incorporation of country park enclaves into country parks should be considered before OZPs were gazetted;

Small House Policy

- (xiv) the Small House Policy should be abolished or reviewed as the policy was unfair (only indigenous villagers could build Small Houses), subject to abuse (selling of land or Small Houses) and was a waste of land resources. Small House grantees should be required to live in their Small Houses; and

Other proposals

- (xv) other proposals included designating developments and infrastructure projects within country park enclaves as Designated Projects under the Environmental Impact Assessment Ordinance (EIAO) (Cap. 499); providing support for the use of private land to enhance the ecology, agriculture, landscape and amenity value of Country Parks; tackling the problem of littering in country parks; encouraging/revitalising agriculture; providing more/better-designed mountain bike trails; and providing emergency vehicular access to village houses;

The Comments

- (n) while comment C1 (submitted by the Hon. Chan Ka Lok) opposed the “V” zone in order to prevent property developments from invading into country parks, comment C2 (submitted by the Shap Pat Heung Rural Committee) opposed the insufficient “V” zone on the grounds that it was unreasonable to restrict the development of Tin Fu Chai village which was established well before Tai Lam Chung Reservoir was constructed;
- (o) C1 proposed the incorporation of all country park enclaves (including Tin Fu Tsai) into country parks and the provision of additional resources to help the affected residents/communities. On the other hand, C2 proposed the designation of a larger “V” zone and the provision of road and sewerage in Tin Fu Tsai or a village re-site option;

Responses to the Grounds of Representations and Representers’ Proposals

- (p) the Government's responses to the grounds of representations and representers' proposals were summarised as follows:

Extent of "V" zone

- (i) there were divergent views on the designation of the "V" zone. While the villagers considered the extent of the current "V" zones (about 0.41 ha in total) to be insufficient, there was objection from the environment-concern groups and a large number of individuals on the designation of "V" zones on the draft OZP;
- (ii) as Tin Fu Chai was a recognised village, a "V" zone would normally be designated to reflect the existing recognised village and to provide land for village expansion. However, as the village was located within the upper direct WGG of Tai Lam Chung Reservoir, WSD would not accept any increase in the risk of water pollution from either point sources (i.e. discharge of sewage from new village type developments/houses) or non-point sources (i.e. activities of inhabitants of the new village type developments). WSD advised that there was a high risk of significant impairment to water quality jeopardising the safety of potable water supply as there was no existing or planned public sewer available and the provision of public sewer was not feasible in engineering terms. In this regard, the request for a larger "V" zone and to allow new Small House development was not supported from the protection of water resources point of view. Nevertheless, WSD would tolerate the existing village type houses and the redevelopment of village type houses previously existed;
- (iii) the proposed "V" zone covering the 66 private lots with house/building status had been designated to minimise the risk of pollution to the water resources. Future redevelopment on these private lots would to some extent meet the Small House demand of the indigenous villagers. While the Indigenous Village

Representative (IVR) advised that the 10-year Small House demand forecast was 150 in 2009, 678 in 2012 and 720 in 2013, it was suggested to adopt the 10-year forecast of 150 Small Houses as the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) had indicated that the forecasts of 678 and 720 Small Houses could not be verified;

- (iv) in drawing up the “V” zones, PlanD had consulted relevant government departments and had taken into consideration the 10-year Small House demand forecast, the need to conserve the character, environment and landscape of Tin Fu Tsai and to protect the water quality and resources. The current “V” zones had already covered the private lots with house/building status to facilitate redevelopment of village type houses by indigenous villagers;
- (v) the design and construction of sewage disposal facilities for NTEH/Small House would need to comply with the Environmental Protection Department Practice Note for Professional Persons (ProPECC PN) 5/93 for protection of the water quality. Moreover, in accordance with the Environment, Transport and Works Bureau Technical Circular (Works) No. 5/2005, LandsD would consult relevant departments when processing NTEH/Small House applications in close proximity to existing streams, ensuring that relevant departments would have adequate opportunity to review and comment on the applications;
- (vi) for enforcement against water pollution, DWS would take appropriate regulatory actions if contravention of Waterworks Ordinance was observed. In case of improper or illegal discharge of sewage or wastewater from development, enforcement action would be taken by the Director of Environmental Pollution (DEP) under the Water Pollution Control Ordinance (Cap. 358);

Protection of country parks and enclaves

- (vii) conservation zonings, including “GB” and “CA”, had been designated to cover areas with landscape value and higher conservation value to protect the natural environment of the Area. Developments which would cause adverse impacts on the water quality and water resources of the water gathering grounds were not encouraged;

Enhancing development control

- (viii) although some representers had proposed amendments to the Notes of the draft OZP to enhance development control, they had not submitted technical information or assessment to support their proposals;
- (ix) DAFC advised that the areas currently zoned “GB” in the Area were *inter alia* not of particularly high ecological value, had been disturbed (such as by burial ground, and war game areas) or comprised secondary woodland dominated by common species. The existing streams/watercourses in the Area, while largely natural, were not of particularly high ecological value. In this regard, the “GB” zone was appropriate and provided sufficient planning control over new developments. It was also considered appropriate to include the ancestral hall at the edge of the “CA” zone within the “V” zone;
- (x) the “V” zone was intended for redevelopment of Small Houses by indigenous villagers. ‘House (NTEH) only’ in Column 1 was in line with the planning intention. Although permission from the Board was not required within the “V” zone, there was administrative control on Small House developments. When processing NTEH/Small House applications, DLO/TM, LandsD would consult relevant government departments and would ensure that appropriate departmental requirements were met. There was

sufficient control over NTEH/Small House developments within the “V” zone;

(xi) for the “GB” zone, retaining ‘House’ use in Column 2 would provide flexibility to cater for unforeseen and exceptional circumstances. As there was a general presumption against development in the “GB” zone, an application for new development would only be considered in exceptional circumstances and had to be justified with very strong planning grounds. There was sufficient planning control on new house development within the “GB” zone;

(xii) for the “CA” zone, retaining ‘House (Redevelopment only)’ in Column 2 would provide flexibility to cater for unforeseen and exceptional circumstances. There was a general presumption against development in the “CA” zone. In general, only developments that were needed to support the conservation of the existing natural landscape or scenic quality of the area or were essential infrastructure projects with overriding public interest would be permitted. There was sufficient planning control on house redevelopment within the “CA” zone;

(xiii) ‘Agricultural Use’ was a Column 1 use within the “V” and “GB” zones, and ‘Agricultural Use (other than Plant Nursery)’ was a Column 1 use within the “CA” zone. The Notes had already stipulated that diversion of stream within the “V” zone, and diversion of stream, filling of land/pond or excavation of land within the “GB” or “CA” zone would require permission from the Board. It was considered appropriate to retain these uses under Column 1 in the relevant Notes;

(xiv) the Area was currently accessible through the Tai Lam Forest Track which was a restricted road. Vehicular access to the Tai Lam Forest Track required approval from DAFC. The draft OZP had

not proposed any new road to/from the Area. As development opportunity in the Area was very limited, there was no need to prepare a layout plan for the area;

War game areas and environmental destruction

(xv) the war game areas that were in existence immediately before the first publication of the draft Tin Fu Tsai DPA Plan would be tolerated under the Ordinance, but any unauthorised new war game area would be subject to planning enforcement action. Besides, DLO/TM, LandsD would consider taking appropriate lease enforcement or land control action against any breach of lease condition or illegal occupation of government land. To protect the water resources, DWS regularly monitored the water quality of streams near the war game areas and appropriate action would be taken by DEP should there be any violation of environmental legislation;

(xvi) the Board had already taken steps to deter “destroy first, build later” activities. In considering a planning application on a site involving suspected unauthorised development (UD), the Board would take into account the result of investigation on the suspected UD by the Planning Authority. If the application site was subject to enforcement action, the Board would take into account the reinstated condition of the site as required in the reinstatement notice (RN) issued by the Planning Authority under the Ordinance when considering the application. If there was evidence to indicate that the UD might constitute an abuse of the application process, the Board would consider whether the application should be rejected for such reason;

Incorporation into country park

(xvii) in the 2010-2011 Policy Address, the Government undertook to

either include the remaining 54 enclaves into Country Parks, or determine their proper uses through statutory planning, so as to meet the conservation and social development needs. The general planning intention of incorporating enclaves into statutory plans was to conserve their natural landscape and conservation value, protect their natural and rural character, and to allow for Small House development by indigenous villagers;

- (xviii) whether an enclave should be incorporated into country parks was a matter for CMPA to decide under the Country Parks Ordinance (Cap. 208) and was outside the purview of the Board. The preparation of the OZP would not preclude any future designation of the area into the country park;

Small House Policy

- (xix) the Small House Policy was a policy matter of the Government, which was outside the purview of the Board; and

Other Proposals

- (xx) the other proposals made by the representers were not directly related to the designation of zonings on the Plan or were outside the purview of the Board. Nevertheless, these proposals had been relayed to the relevant government departments for consideration as appropriate.

27. The Chairman then invited the representers and their representatives to elaborate on the representations.

Representation No. R3

28. With the aid of a Powerpoint presentation, Ms Debby Chan made the following main points:

- (a) the enclave of Tin Fu Tsai was encircled by the Tai Lam Country Park and was located within a gazetted WGG. Even though there were only 20 persons living in the Area in 2013 (according to survey), the draft OZP had planned for a population of 560 persons;
- (b) Tin Fu Tsai had the same high landscape value as that of Tai Lam Country Park. The aerial photo of the area showed that except for the existing war games site, Tin Fu Tsai was well integrated with Tai Lam Country Park;
- (c) while a large number of country parks were established from 1977 to 1979, there were no further additions since then, except for one site in 2001 and three enclaves in 2013;
- (d) enclaves in country park areas were in fact created as a measure of expediency. In order to facilitate the establishment of country parks in the late 1970's, out of about 2,500 ha of private land within country park areas, the Government incorporated about 500 ha into the country parks and left about 2,000 ha as enclaves. There were a total of 77 enclaves in country park areas. At that time, these enclaves, which had a limited number of building lots and were being actively used as agricultural land, were deemed to be compatible with the surrounding country parks. By 2010, 23 of these enclaves had been covered by statutory plans while the remaining 54 enclaves were not provided with any statutory protection;
- (e) there was a significant difference between country parks and enclaves in terms of management. The lack of protection and management of the enclaves came to the fore in the Tai Long Sai Wan incident in 2010. Since then, there had been public expectation on the Government to better protect the country park enclaves and safeguard them against any development that would undermine public enjoyment of the natural environment;
- (f) in the Annual Report of the Ombudsman 2011, it was recommended that AFCD should consider incorporating private lands that had conservation value into country parks in accordance with the revised CMPB criteria for

determining whether private land should be included into country park areas. When reviewing its criteria, CMPB also recognised that the TPO was less effective than the Country Parks Ordinance in achieving the nature conservation objective;

- (g) from the documents submitted to the Legislative Council in 2013 in relation to the proposed incorporation of the enclave at Tai Long Sai Wan into the country park, it was noted that the Government would allocate resources to manage the site, improve supporting facilities and carry out refuse collection, vegetation management, patrols and law enforcement only if the sites were under the purview of the Country Parks Ordinance;
- (h) comparing sites that were within country parks, sites covered by OZPs but outside the “V” zone and sites which were zoned “V” on OZPs, only sites within country parks were provided with an appropriate level of control and management by the Government. The detailed restrictions and controls were set out in the Country Parks and Special Areas Regulations of the Country Parks Ordinance;
- (i) although 25 of the 54 enclaves were proposed to be incorporated into country parks, these enclaves comprised primarily government land with no development pressure, i.e. no Small House demand, and covered an area of only 236 ha i.e. 10% of the total area covered by enclaves;
- (j) integrating enclaves into country parks would result in a better protection of the enclaves in terms of its ecological value, landscape value and recreational value;
- (k) for enclaves that were covered by statutory plans, DAFC indicated that they would not carry out any assessment on the cumulative impact of such enclaves on country parks;

[Mr Frankie W.C. Yeung arrived to join the meeting at this point.]

- (l) for the draft OZP, the current proposal to limit the “V” zone to existing buildings and approved Small House applications was supported. Moreover, any development or redevelopment of Small Houses should obtain the prior approval of CMPB, AFCD, WSD and the Board;
- (m) as planning applications could always be submitted for Small House development within the “GB” zone, in order to give better protection to the enclave and to better protect the water resources within the WGG, all land zoned “GB” should be rezoned to either “GB(1)” or “CA”;
- (n) the development of Small Houses had caused adverse sewage and effluent impacts as government departments did not actively monitor the operation and maintenance of septic tanks serving individual Small Houses;
- (o) the “GB” zone was inadequate as no measures were provided under the zone to stop the operation of the existing war games site which had already extended into areas covered by the “CA” zone; and
- (p) the traffic impact generated by the planned population of 560 persons had not been adequately considered. The area was served by only one track which was shared by WSD staff, hikers, cyclers on mountain bikes, as well as coaches serving the war games site. The increase in population would likely increase vehicular traffic along the track and require the widening of the existing track into a standard road, causing adverse impact on the enclave.

Representation No. R618

29. Ms Janice Cheng made the following main points:

- (a) a set of supplementary information on the Block Crown Lease (BCL) had been tabled at the meeting for Members’ reference;
- (b) the Board should take into account the problems of BCL and the policies that were related to it;

- (c) the policy of allowing people other than indigenous villagers to build NTEHs was a mistake;
- (d) out of 365 square miles of land covered by BLC, only 18.8% were leased land. It was a mistake to permit the expansion of the “V” zone in areas covered by BCL;
- (e) the original intention of the Small House Policy was to allow an indigenous villager who owned land and was in housing need to build a Small House. This policy, however, had been abused as Small Houses were no longer built to meet the housing need of indigenous villagers; and
- (f) in the past, the development of village houses was covered by the Buildings Ordinance. However, the enactment of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121) allowed the development of NTEHs and their related site formation works and drainage works to be exempted. Since then, the Small Houses that were developed did not meet the requirements of safety (in terms of the provision of emergency vehicular access (EVA)) and hygiene, contravening the requirements under TPO.

30. The Chairman reminded Ms Cheng to focus her presentation on the issues concerning the draft OZP. Ms Cheng continued with her presentation and made the following main points:

- (a) as the Tin Fu Tsai area was located in a remote area with no vehicular access, it was not suitable for Small House development as they would fail to meet the requirement of provision of EVA;
- (b) as Tin Fu Tsai was located within the WGG, ‘Agricultural Use’ should not be permitted as agricultural activities would pollute the water resources;
- (c) the redevelopment of village houses and the expansion of the “V” zone

should not be allowed. Instead, the Government should consider relocating the Tin Fu Tsai village;

- (d) the statutory plan should be prepared under the confines of BCL and should not contradict BCL;
- (e) as all land in the area had already been sold to outsiders and developers, the indigenous villagers did not own any land and, in this regard, should not be permitted under the Small House Policy to build Small Houses;
- (f) the LandsD should take enforcement action against any leasee who breached the conditions of BCL by re-entering the lot; and
- (g) while the Small House Policy was originally intended to enable indigenous villagers to continue living in the village, it had been abused as the Small Houses that were built were sold to outsiders.

31. At this juncture, the Chairman reminded Ms Cheng again to focus her presentation on the issues concerning the draft OZP, and advised her that he would need to stop her presentation if she continued to raise issues that were not related to the draft OZP. Ms Cheng then continued with her presentation and made the following main points:

- (a) the draft OZP should not contradict the lease conditions specified under BCL. A lot of problems would be generated if the current Small House Policy was allowed to continue as an unlimited number of Small Houses would be built in the area;
- (b) the Government should ascertain the number of people with rights to build Small Houses and the amount of private land that was held by the indigenous villagers;
- (c) Small Houses should not be allowed in Tin Fu Tsai as the village did not have EVA which would contravene the requirements under TPO on the

safety aspect; and

- (d) The Government should consider re-siting the village.

32. Noting that Ms Cheng was repeating the points made and that her written submissions had already been tabled for Members' reference, the Chairman said that he would end Ms Cheng's presentation unless she had other points to raise. As Ms Cheng insisted to continue her presentations, the Chairman gave her 2 more minutes to finish her presentation. She made the following main points:

- (a) Government should take enforcement action against those leasees that had breached the conditions of BCL; and
- (b) the expansion of the village should not be provided for as the indigenous villagers did not own any land and were therefore not eligible to apply for the development of Small Houses. It would be an injustice to the general public to expand the "V" zone, resulting in the development of Small Houses that did not serve indigenous villagers;

33. At this juncture, the Chairman asked Ms Cheng to stop her presentation, but Ms Cheng protested and refused to stop her presentation. The Chairman announced a 5-minute break of the meeting.

[The meeting took a break of about 5 minutes at this point.]

[Mr Patrick H.T. Lau and Mr Frankie W.P. Chou left the meeting at this point.]

[Dr C.P. Lau arrived to join the meeting at this point.]

34. When the meeting was resumed, the Vice-Chairman said that Ms Cheng's oral presentation and the document that was tabled at the meeting were mainly concerned with the Small House Policy and were not directly related to the Board's consideration of the draft OZP. As Ms Cheng had already presented similar views to the Board on several occasions, the Vice-Chairman considered that the Board had already adequately heard her

views concerning the Small House Policy. Regarding Ms Cheng's views that the "V" zone in Tin Fu Tsai should not be extended, the Vice-Chairman said that these views were relevant to the draft OZP and had been noted. In order to be fair to the other representers, he considered that Ms Cheng should stop her presentation and allow other representers to make their presentations. Ms Cheng continued her protest and refused to stop her presentation, saying that she had not yet used up the time she requested for her presentation.

[Professor Eddie C.M. Hui arrived to join the meeting at this point.]

35. The Chairman asked for views from Members. Two Members suggested giving Ms Cheng 5 more minutes to finish her presentation. A Member agreed but reminded Ms Cheng that she should only elaborate the points made in relation to her submitted written representation to the draft OZP.

36. The Chairman said that 5 more minutes would be given for Ms Cheng to finish her presentation. He reminded Ms Cheng not to repeat and not to bring up issues that were not relevant to the draft OZP. Ms Cheng then continued with her presentation and made the following main points:

- (a) as Tin Fu Tsai was located in the WGG, there were stringent requirements under Waterworks Ordinance controlling activities in the area;
- (b) the draft OZP had not taken into consideration the necessary facilities to support the future community such as the provision of roads;
- (c) any proposed development in the area would cause pollution to the reservoir and would be in contravention with TPO;
- (d) the area should be incorporated into country parks so that AFCD would be responsible for the management of the area;
- (e) the views she had made to the Government had not been included in the TPB paper;

- (f) since the site was not suitable for further development, the Government should consider the alternative of relocating the village;
- (g) if the Government stood by the original intention of the Small House Policy, Small House developments would not be occupied by people other than indigenous villagers and there would no longer be any need to extend the “V” zone;
- (h) the Board should consider issues pertaining to village development from a wider perspective; and
- (i) the Government should identify areas away from the reservoir to accommodate the Small House demand in order not to pollute the water resources.

37. Upon expiry of the 5 minutes, the Chairman asked Ms Cheng to stop her presentation and she did so.

Representation No. R3896

38. With the aid of a Powerpoint presentation, Mr Tobi Lau made the following main points:

- (a) WWF-HK supported the existing “CA” zone proposed in the draft OZP which would give better protection to the flora and fauna in the area;
- (b) the existing “CA” zone should be extended to the west and northwest in order for the enlarged “CA” zone to be fully integrated with the Tai Lam Country Park;
- (c) there was a natural stream in the northern part of the proposed “CA” extension area that was in good condition and was worthy of conservation. Moreover, the maturity and coverage of vegetation in the western part of the proposed “CA” extension area was very similar to the vegetation found in

the existing “CA” zone;

- (d) the proposed “CA” extension area would be easily integrated with the existing “CA” zone; and
- (e) the proposed “CA” extension area would give better protection to the eco-system in the area and would serve as a wild life corridor connecting the existing “CA” zone with Tai Lam Country Park.

Representation No. R3897

39. With the aid of a Powerpoint presentation, Ms Woo Ming Chuan made the following main points:

- (a) the enclave of Tin Fu Tsai was encircled by the Tai Lam Country Park and was located about 2km upstream of Tai Lam Chung Reservoir;
- (b) there was an existing network of natural stream and watercourses within the area covered by the draft OZP, with both banks being overgrown with vegetation which should be protected. Moreover, there were several seasonal wetlands and ponds;
- (c) although some of the watercourses near the war games site and Tin Fu Tsai village had been channelised, natural vegetation growth was found on the stream bed of these watercourses;
- (d) according to the Landscape Value Map of Hong Kong, the landscape value of the area was ‘High’ and ‘High (Qualified)’, notwithstanding the disturbance caused by human activities and the existence of a war games site in the area;
- (e) several popular hiking trails including the Yuen Tsuen Ancient Trail, the MacLehose Trail as well as the Tai Lam Mountain Bike Trail passed through Tin Fu Tsai;

- (f) as the hillside surrounding Tin Fu Tsai was well-vegetated, there was no clear distinction between the surrounding hillside and the Tai Lam Country Park. It was doubted whether the “GB” zoning of the area was adequate to protect its existing flora and fauna;
- (g) the trees in the “CA” zone were very mature, although there was evidence that the woodlands within the “CA” zone had been used as a war games site. Around the periphery of the woodland, there was an abundance of new, under-storey vegetation growth, showing that there was a high potential for the woodland to regenerate itself if it was undisturbed;
- (h) an adventure training camp and some toilet facilities were found in the area. Moreover, works for the installation of street lamps were being carried out;
- (i) in the latest version of the draft OZP, a site adjoining the existing “CA” zone was proposed to be zoned “V”. As human activities would adversely affect the natural woodland, the proposed “V” zone adjacent to the “CA” zone was highly undesirable. Moreover, as Tin Fu Tsai was located within the WGG, it was undesirable for sites located immediately adjacent to the existing streams and watercourses to be zoned “V” as these sites would pose a high risk of water pollution to the reservoir;
- (j) since Tin Fu Tsai could not be provided with public sewers due to the undulating terrain and remoteness of the area, Small House developments should not be allowed. Although septic tanks were often used as an alternative where public sewers were not available, it should be noted that septic tanks were not effective in filtering E-coli and, due to operation and maintenance problems, they could be a source of pollution if they were not well-managed;
- (k) with a planned population of 560 persons, the septic tank cleaning vehicles would need to come to the village quite often in order to ensure the proper maintenance of the septic tanks;

- (l) the designation of “V” zones would generate other kinds of waste water causing non-point source pollution to the WGG such as waste water from car-washing activities. In accordance with the advice of WSD in TPB Paper No. 9509, the most effective means to prevent non-point source pollution to the water gathering grounds was through land use control;
- (m) the draft OZP should be designed to ensure that the water quality within the WGG was free from foreseeable pollution impacts and was safe for human consumption;
- (n) the “V” zones on the draft OZP should be strictly confined to the existing village houses with inhabitants and should be kept at least 30 metres away from streams. Moreover, the size of the “V” zone should be determined based on the supporting capacity of the area in terms of sewage and traffic; and
- (o) all woodland and streams and their riparian zones should be zoned as “GB(1)” or “CA” so that they could be better protected.

Representation No. R3898

40. Mr Tsoi Lung Wai made the following main points:

- (a) Tin Fu Tsai was a recognised village. However, most of the villagers had left the village due to its remoteness and the lack of basic facilities such as running water;
- (b) the villagers of Tin Fu Tsai had put much effort to retain the village and prevent it from falling into ruins;
- (c) even though the village should have been resited due to its location within the WGG, the Government had refused to resite the village due to resource constraints;
- (d) the existing “V” zone provided in the draft OZP only covered existing

village houses and existing lots with building status. No land had been planned for any new Small House development within the “V” zone;

- (e) up to now, the villagers had been keeping the streams clean and unpolluted. In order to accommodate the future population, a modern sewage treatment system had been proposed which was accepted by EPD, though WSD continued objecting to the proposal;
- (f) while a public sewer linking Tin Fu Tsai to Tsing Lung Tau or Tai Lam Chung was considered not feasible engineering-wise, EPD should consider the feasibility of linking the public sewer from Tin Fu Tsai to Ho Pui village or the provision of a public sewer down to Tai Lam Tunnel, which should be much more practicable. The construction of such a public sewer would be cost-effective if the assessment took into account not only the benefits to Tin Fu Tsai but also that to 1.8 million people using the water from Tai Lam Chung Reservoir;
- (g) the so-called Mountain Bike Trail was in fact a one-way track currently used by villagers and WSD staff. Mountain bike cyclers should not have used the track as many accidents were caused due to the increased conflict among road users; and
- (h) during autumn, over 50,000 visitors and 20,000 visitors went to see the red leaves in the Tai Tong area during weekends and on weekdays respectively. There was an inadequate provision of emergency services to cope with the influx of tourists. Moreover, the non-point source pollution generated by these visitors was much more significant than that generated by the villagers of Tin Fu Tsai.

[Mr Frankie W.C. Yeung left the meeting temporarily at this point.]

41. As the presentation from PlanD’s representatives, representers and their representatives had been completed, the Chairman invited questions from Members.

42. The Vice-Chairman enquired about the basis of the 10-year Small House demand forecast figures provided by the village representative and the planned population of 560 persons mentioned in the TPB Paper. In response, Mr Tsoi Lung Wai said that the 10-year Small House demand forecast was based on an assessment made in 2013 after having contacted all the villagers in Hong Kong and those living overseas and enquired about their demand for Small Houses. He noted that the planned population of 560 persons was PlanD's estimate of the population in the "V" zone upon full development.

[Professor P.P. Ho left the meeting at this point.]

43. In response to a Member's enquiry, Mr Tsoi Lung Wai said that all the existing residents in Tin Fu Tsai were indigenous villagers. No outsiders lived in Tin Fu Tsai at the moment. In response to the Member's further enquiries, Mr Tsoi said that while he agreed that Small Houses built for indigenous villagers should not be sold to outsiders, there might be circumstances where the sales of a Small House was necessary, for example when the villager was in dire need of money. On the suggestion of restricting the sales of a Small House to indigenous villagers only, Mr Tsoi said that while villagers would only sell their Small Houses when they were in need, there might not be another indigenous villager who could afford to buy the Small House that was on sale.

44. In view of the remoteness of the village, a Member enquired how the existing residents of the village made a living. In response, Mr Tsoi Lung Wai said that most of the existing residents of the village were already in retirement.

45. In response to a Member's enquiry on the amount of people that was served by Tai Lam Chung Reservoir, Mr Philip Chung, SE/NTW(1), WSD said that the main areas served by the Tai Lam Chung Reservoir included Tuen Mun, Sham Tseng, Tsuen Wan and Siu Ho Wan on Lantau Island, providing water supply to about 1/6 of the population of Hong Kong.

46. The Chairman asked the representatives of WSD to elaborate on the reasons for the stringent development restrictions imposed within WGG. In response, Mr Robin Law, Engineer/Planning (6), WSD, said that WGG were broadly divided into direct and indirect WGG. Direct WGG referred to areas where the water flowed by gravity directly

into the reservoir while indirect WGG referred to areas where the water flowed by gravity into the catchwater and was then conveyed by catchwater or other artificial means into a direct catchment area. Each type of WGG was further divided into upper and lower WGG, depending on their distance away from the reservoir/catchment. An upper direct WGG referred to an area that was over 500 metres from a reservoir. The “Working Party Report on the Land Use and Development in Catchment Areas” in 1969 had laid down guidelines for control of developments in these four types of WGG.

[Mr Clarence W.C. Leung left the meeting at this point.]

47. Mr Kelvin Kwok, Senior Chemist, WSD supplemented that there was a Technical Memorandum under the Water Pollution Control Ordinance that controlled water quality in WGG. In areas with human activities, WSD’s basic requirement was that any development or activity should cause ‘no material increase in water pollution’ and each development or activity would be assessed based on this criterion. For Tin Fu Tsai, a comparison of the existing water quality in the area and the estimated future water quality would be made to determine whether the proposed development would be allowed. Water samples were taken each month to monitor the water quality in the Tin Fu Tsai area and the assessment showed that the existing village did not have any adverse impact on water quality.

48. In response to a Member’s enquiry on the proposal to resite the village, Mr K.C. Kan, STP/TM2, PlanD said that it was a matter of government policy to resite a village. Relevant government departments did not have any plan to resite the village.

49. Noting the views of a representer about BCL, a Member enquired whether the proposed “V” zone on the draft OZP was in contravention with BCL. In response, the Chairman said that the BCL was a lease matter which was not of direct relevance to the preparation of the draft OZP under TPO. Mr Jeff Y.T. Lam, Deputy Director of Lands, explained that a BCL was a lease document and not a piece of legislation. A BCL issued in the old days covered a number of lots, unlike a modern lease which governed just one lot. Generally, a BCL was less restrictive when compared with the modern lease, but a BCL normally included a requirement that construction of building was not allowed unless with the prior approval of the Government. Apart from the lease requirement, the

applicant for building on land covered by BCL needed to comply with TPO and other relevant ordinances/regulations.

50. In response to a Member's enquiry on whether the water quality would be affected by the "V" zone, Mr Kelvin Kwok, Senior Chemist, WSD said that WSD would be consulted on any proposed development within WGG and WSD would consider the proposal in accordance with the criterion of 'no material increase in water pollution' to determine whether the proposal was acceptable and the conditions, if any, to be imposed. The applicant would need to provide information to WSD to demonstrate that the proposal would cause 'no material increase in water pollution'. In response to the Member's further enquiries on the cumulative impact of Small House development on water quality and enforcement measures, Mr Kwok said that as each application had to demonstrate that it would cause 'no material increase in water pollution', the cumulative impact of the applications would be irrelevant. As for enforcement, WSD and EPD would carry out enforcement under the Waterworks Ordinance and Water Pollution Control Ordinance respectively if an applicant failed to implement the development proposal in accordance with the requirements set out for the approved application. Mr Kwok noted that the villagers of Tin Fu Tsai had put much effort in protecting the water resources in the area and maintaining the water quality of the Tai Lam Chung Reservoir.

51. As Members had no further questions and the representers and their representatives had nothing to add, the Chairman said that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and would inform the representers of the Board's decision in due course. The Chairman thanked the representers and their representatives, and the Government representatives for attending the hearing. They all left the meeting at this point.

Deliberation Session

52. Noting that the existing environment and water resources had been properly maintained by the villagers, a Member supported the draft OZP as the proposal would keep the status quo and allow the existing village of Tin Fu Tsai to be retained. The Member did not support the representers' proposal to re-site the village and considered that the village was a heritage that should be preserved. The Member noted that the

existing road to the village was a restricted road and was only a village track that had also been used by mountain bike users. The Member noted that the war games site, which was an existing use, was quite well-managed.

53. A Member was concerned about the increase in population in the WGG and considered that expansion of the village should not be allowed. The Chairman pointed out that the proposal of the draft OZP was to restrict the “V” zone to cover only the existing village houses and private lots with house/building status and that any development or redevelopment within the “V” zone would need to meet the requirements of WSD and EPD respectively. No expansion of the “V” zone had been allowed. A Member noted that some photos of village houses causing pollution to the environment, as shown in the representers’ presentations, were taken from other villages and were not from Tin Fu Tsai village.

54. Referring to footnote 1 of the TPB paper, Mr Jeff Y.T. Lam, Deputy Director of Lands, clarified that while the 10-year Small House demand forecast figures were provided by the village representative through DLO/TM, LandsD, the comment in the last sentence of the footnote was not provided by LandsD.

55. While agreeing that the status quo of Tin Fu Tsai should be maintained, a Member considered that the existing war games site should be properly regulated. In response, the Secretary said that as the war games site in Tin Fu Tsai was already in existence when the draft Tin Fu Tsai DPA Plan No. DPA/TM-TFT/1 was first published, it was an ‘existing use’ that would be tolerated. Nevertheless, any new development or extension of war game use would need to be in line with the requirements under the statutory plan and the requirements of WSD and EPD as the site was located within WGG.

56. In response to a Member’s question about the Small House policy, the Chairman said that the Small House policy involved very complex issues and was under review by the Government.

57. A Member supported one of the representer’s proposal to extend the existing “CA” zone to its west and northwest if the proposed area had similar species as those with

the “CA” zone. Another Member, however, disagreed with the proposal as AFCD had advised that the plant species found in the proposed “CA” extension area was not of high conservation value. The only valid reason provided by the representer in support of the proposal was the possibility of providing a wild life corridor for the existing fauna in the area. The Member considered that the existing “GB” zone covering the area could serve the same purpose.

58. In response to a Member’s enquiry on the difference between the “GB” zone and the “CA” zone, Mr K.K. Ling, Director of Planning, said that while the “GB”, “GB(1)” and “CA” zones were all conservation-related zoning with a presumption against development, the “GB(1)” zone was more stringent than the “GB” zone in that the submission of a planning application for NTEH development was not allowed as it was not a Column 2 use under the “GB(1)” zone. The uses permitted in the “CA” zone was even more stringent and support from AFCD on the conservation value of the area was required. Mr Ling considered that the existing “GB” zone was appropriate and there was no strong reason to support the proposed extension of the “CA” zone to the west and northwest.

59. In conclusion, Members agreed to note the supportive views of R1 and R2. Members also decided not to uphold representations R3 to R799 and R801 to R3902. Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 7 of the Paper and considered that they were appropriate.

Representation No. R1 and R2

60. After deliberation, the Board noted the supportive views of representations R1 and R2 but did not support their proposal to rezone all “Green Belt” (“GB”) areas to “Conservation Area” (“CA”) and considered that no amendment should be made to the draft OZP to meet the representations. There was no need to extend the “CA” zone as the areas outside the “CA” zone were not of particularly high ecological value. The “GB” zone was appropriate and provided sufficient planning control over new developments.

Representation No. R3898 and R3899

61. After deliberation, the Board decided not to uphold representations R3898 and

R3899 and that no amendment should be made to the draft OZP to meet the representations for the following reason:

“the “Village Type Development” (“V”) zones are designated with due regard to the demand for Small Houses and the need to conserve the natural habitats, landscape resources and rural and natural character of the Area, as well as to protect the water quality and water resources of the water gathering ground.”

Representation No. R3 to R799, R801 to R3897 and R3900 to R3902

62. After deliberation, the Board decided not to uphold representations R3 to R799, R801 to R3897 and R3900 to R3902 and that no amendment should be made to the draft OZP to meet the representations for the following reasons:

“Extent of “V” zone

- (a) the “Village Type Development” (“V”) zones are designated with due regard to the demand for Small Houses and the need to conserve the natural habitats, landscape resources and rural and natural character of the Area, as well as to protect the water quality and water resources of the water gathering ground;

Protection of country parks and enclaves

- (b) conservation zonings, including “Green Belt” (“GB”) and “Conservation Area” (“CA”) with a general presumption against development, have been designated to cover areas with landscape value and higher conservation value to protect the natural environment of the Area and the surrounding Tai Lam Country Park. The general planning intention for the Area is to conserve the natural habitats, landscape resources and rural and natural character of the Area. Developments which would cause adverse impacts on the water quality and water resources of the water gathering ground are not encouraged;

Enhancing development control

- (c) there is no need to extend the “CA” zone as the areas outside the “CA” zone are not of particularly high ecological value. The “GB” zone is appropriate

and provides sufficient planning control over new developments;

- (d) retaining 'House (New Territories Exempted House (NTEH) only)' in Column 1 of the "V" zone is in line with the planning intention for the "V" zone. There is sufficient administrative control over NTEH/Small House developments within the "V" zone;
- (e) retaining 'House' in Column 2 of the Notes for the "GB" zone would provide flexibility to cater for unforeseen and exceptional circumstances. There is sufficient planning control on new house development within the "GB" zone;
- (f) retaining 'House (Redevelopment only)' in Column 2 of the Notes for the "CA" zone would provide flexibility to cater for unforeseen and exceptional circumstances. There is sufficient planning control on house redevelopment within the "CA" zone;
- (g) 'Agricultural Use' should be retained in Column 1 of the Notes for the "V" and "GB" zones and 'Agricultural Use (other than Plant Nursery)' should be retained in Column 1 of the Notes for the "CA" zone. There is private agricultural land within these three zones;
- (h) the draft OZP has not proposed any new road to/from the Area. The "V" zones on the draft OZP only cover limited areas of private lots with house/building status. As development opportunity in the Area is very limited, there is no need to prepare layout plan;

War games areas and environmental destruction

- (i) any unauthorised new war game area will be subject to planning enforcement action. Relevant government departments may also take appropriate actions against illegal or unauthorised uses/activities under their respective jurisdictions;

Incorporation into country park

- (j) designation of country park is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208), which is outside the purview of the Board;

Small House Policy

- (k) the New Territories Small House Policy is a policy matter of the Government, which is outside the purview of the Board; and

Other proposals

- (l) the proposals are not directly related to designation of zoning on the draft OZP, which are also outside the purview of the Board. They have been relayed to relevant government departments for consideration as appropriate.”

63. As the agenda items for the morning session had been completed ahead of schedule, the Chairman suggested and Members agreed to consider Agenda Items 16 to 20 originally scheduled for the afternoon session.

Agenda Items 16 and 17

[Open Meeting]

Request for Deferment of Review of Application No. A/NE-KLH/465

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” Zones, Lot 461 RP in D.D. 7, Tai Hang, Tai Po

Request for Deferment of Review of Application No. A/NE-KLH/466

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” Zones, Lot 461 S.A in D.D. 7, Tai Hang, Tai Po

(TPB Paper No. 9711)

[The meeting was conducted in Cantonese.]

64. The Chairman said that since the two applications were for the same use submitted by the same representative, and the application sites were located in the vicinity

of each other, the two applications would be considered together.

65. The Secretary reported that on 17.7.2014, the applicants' representative wrote to the Board and requested the Board to defer making a decision on the review applications for 2 months so as to allow time for the applicants to prepare further information in response to the views of the Board and to supplement the justifications in support of the review applications. This was the first request from the applicants for deferment of the review applications.

66. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that the applicants needed more time to prepare further information which was essential for the consideration by the Board, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

67. After deliberation, the Board agreed to defer a decision on the review applications as requested by the applicants pending the submission of further information by the applicants. The Board also agreed that the review applications should be submitted for its consideration within three months upon receipt of the further submission from the applicants. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicants that the Board had allowed a period of two months for preparation of the submission of further information and no further deferment would be granted unless under very special circumstances.

[Ms Julia M.K. Lau arrived to join the meeting at this point.]

Agenda Item 18

[Open Meeting]

Request for Deferment of Review of Application No. A/TKO/96

Proposed Social Welfare Facility (Residential Care Home for the Elderly) in “Green Belt” Zone and an Area shown as ‘Road’, Lot 146 in D.D. 224 and Adjoining Government Land, Tseung Kwan O

(TPB Paper No. 9707)

[The meeting was conducted in Cantonese.]

68. The Secretary reported that on 7.8.2014, the applicant’s agent wrote to the Board and requested the Board to defer making a decision on the review application for 3 months so as to allow time for the applicant to address comments from the Social Welfare Department (SWD), Transport Department (TD) and Fire Services Department (FSD). The applicant’s agent advised that the applicant was inviting representatives of SWD and FSD for a joint site inspection and to carry out a rescue simulation. The applicant’s architect was also working on the solutions to address the barrier-free access issues. This was the first request from the applicant for deferment of the review application.

69. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that the applicant needed more time to liaise with various government departments to resolve technical issues, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

70. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted for its consideration within three months upon receipt of the further submission from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Board’s consideration. The Board also agreed to advise the applicant that the Board had allowed a period of two months for preparation of the submission of further information instead of the three months requested and no further deferment would be granted unless under very special circumstances.

[Ms Bonnie J.Y. Chan left the meeting at this point.]

Agenda Item 19

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft To Kwa Peng and Pak Tam Au Outline Zoning Plan No. S/NE-TKP/1 **(TPB Paper No. 9724)**

[The meeting was conducted in Cantonese.]

71. The Secretary briefly introduced the Paper. On 3.1.2014, the draft To Kwa Peng and Pak Tam Au Outline Zoning Plan (OZP) No. S/NE-TKP/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the 2-month exhibition period, 7,689 representations were received. On 11.4.2014, the representations were published for public comments and, in the first three weeks of the publication period, 980 comments were received.

72. The representations could be categorised into 2 groups. The first group comprised 362 representations (R1 to R362) submitted by the village representative (VR) of To Kwa Peng and individuals. These representations mainly objected to the inadequate “Village Type Development” (“V”) zone of To Kwa Peng and proposed that the “V” zone should be expanded and that various areas should be rezoned from “Conservation Area” (“CA”) to “Green Belt” (“GB”) and “Agriculture” (“AGR”).

73. The second group comprised the remaining 7,327 representations (R363 to R7689) submitted by the green/concern groups and individuals. These representations mainly objected to the excessive “V” zone on environmental grounds and proposed that the “V” zone should be limited to the existing structures/building lots and approved Small House applications and that the environmentally sensitive areas should be covered by conservation zonings.

74. Among the 980 comments received, 978 comments (C3 to C980) were submitted by individuals opposing the OZP or opposing the representations in the second group (i.e. R363 to R7689). The remaining two comments were submitted by a

Legislative Council Member (Hon. Chan Ka Lok Kenneth) (C2) and an individual (C1) objecting to the OZP mainly on environmental grounds.

75. As the representations and comments were mainly related to the extent of the “V” zone and environmental conservation issues of the Area which had attracted public attention, it was recommended that the representations and comments should be considered by the full Board.

76. As the representations and the related comments from the villagers, green/concern groups and individuals were different, it was suggested that the Board should consider the representations and comments in two groups as follows:

- (a) Group 1 - collective hearing of the first group comprising 362 representations (R1 to R362) and 978 comments (C3 to C980) submitted by the VR and individuals mainly in relation to the inadequate “V” zone; and
- (b) Group 2 - collective hearing of the second group comprising 7,327 representations (R363 to R7689) and two comments (C1 and C2) submitted by the green/concern groups and individuals mainly in relation to the excessive “V” zone and the environmental conservation proposals for the area.

77. The hearing was tentatively scheduled to be held in September 2014. Additional meeting dates would be scheduled for the Board’s consideration of the representations and comments, if necessary.

78. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of the representations and comments as detailed in paragraph 3 of the Paper.

Agenda Item 20

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations on Proposed Amendments to the Draft Ta Kwu Ling North (TKLN) Outline Zoning Plan (OZP) No. S/NE-TKLN/1 arising from Consideration of Representations on TKLN OZP No. S/NE-TKLN/1

(TPB Paper No. 9727)

[The meeting was conducted in Cantonese.]

79. The Secretary briefly introduced the Paper. On 19.7.2013, the draft Ta Kwu Ling North (TKLN) Outline Zoning Plan (OZP) No. S/NE-TKLN/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of four representations were received. On 11.10.2013, the representations were published for public comments and in the first three weeks of the publication period, one comment was received.

80. After consideration of the representations and comment on 28.2.2014, the Town Planning Board (the Board) decided to meet the two representations submitted by the World Wide Fund for Nature Hong Kong and the Kadoorie Farm and Botanic Garden Corporation and considered that the zoning of Heung Yuen Wai (HYW) Stream and its 20m riparian area should be amended and the Notes for “Recreation” (“REC”) zone of the OZP should clearly reflect the planning intention for low-density recreational developments. The proposed amendments to the draft TKLN OZP No. S/NE-TKLN/1 were considered and agreed by the Board on 16.5.2014.

81. On 13.6.2014, the following proposed amendments to the draft TKLN OZP No. S/NE-TKLN/1 were exhibited for public inspection under section 6C(2) of the Ordinance:

- (a) to rezone the various sections of HYW Stream and its riparian area from “REC”, “Agriculture” (“AGR”) and “Village Type Development” (“V”) to “Green Belt” (“GB”) (*Amendment Items A, B and C respectively*);
- (b) to rezone a piece of land to the west of Ha Heung Yuen from “AGR” to “V” (*Amendment Item D*); and

- (c) to revise the planning intention of the Notes for the “REC” zone to indicate its planning intention for low-density recreational developments.

82. Upon expiry of the three-week exhibition period, a total of 23 further representations were received. Two further representations (F1 and F2) supported Amendment Items A to C to rezone various sections of HYW Stream and its riparian area from “REC”, “AGR” and “V” to “GB” but opposed Amendment Item D to rezone a piece of land to the west of Ha Heung Yuen from “AGR” to “V”. F1 and F2 also proposed to rezone the tributary of HYW Stream and its riparian area running between Ha Heung Yuen and HYW to the main HYW Stream from “V” to a conservation zoning such as “Conservation Area” or “GB”. 20 further representations (F3 to F22) objected to Amendment Item A to rezone a section of HYW Stream and its riparian area from “REC” to “GB” and the remaining further representation (F23) was against Amendment Items A to C.

83. As the representations had been considered by the full Board, it was considered more appropriate for the full Board to hear the further representations without resorting to the appointment of a Representation Hearing Committee. The hearing could be accommodated in the Board’s regular meeting and a separate hearing session would not be necessary. The arrangement would not delay the completion of the representation consideration process.

84. As all the further representations were related to the zoning amendments in respect of HYW Stream, it was suggested to consider the further representations collectively in one group.

85. The hearing was tentatively scheduled to be held in September 2014. The original representers and commenter and the further representers F1 to F23 would all be invited to the hearing.

86. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of the further representations as detailed in paragraph 3 of the Paper.

87. The meeting was adjourned for lunch break at 12:45 p.m..

88. The meeting was resumed at 2:15 p.m.

89. The following Members and the Secretary were present in the afternoon session.

Mr Thomas C.C. Chan Chairman

Mr Stanley Y.F. Wong Vice-Chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Dr W.K. Yau

Mr H.W. Cheung

Mr Sunny L.P. Ho

Mr Lincoln L.H. Huang

Mr Dominic K.K. Lam

Mr Stephen H.B. Yau

Mr F.C. Chan

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection (1)

Mr C.W. Tse

Principal Assistant Secretary (Transport 3)

Transport and Housing Bureau

Miss Winnie M.W. Wong

Director of Planning

Mr K.K. Ling

Deputy Director of Planning/District
Mr Raymond K.W. Lee

Secretary

Tuen Mun and Yuen Long District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TT/329

Proposed Temporary School of Martial Arts for a Period of 3 Years in “Residential (Group D)” zone, Lot 3267 RP in D.D. 116, Tai Shu Ha Road East, Tai Tong, Yuen Long
(TPB Paper No. 9708)

[The item was conducted in Cantonese.]

Presentation and Question Session

90. The following representative of the Planning Department (PlanD) and the applicant’s representatives were invited to the meeting at this point.

Mr. C.C. Lau	-	District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW), PlanD
Ms Betty S. F. Ho]	
Mr Andy Wong]	Applicant’s representatives
Ms Cheung Hoi Yee]	

91. The Chairman extended a welcome and explained the procedure of the review hearing and invited DPO/TM&YLW to brief Members on the review application.

92. With the aid of a Powerpoint presentation, Mr. C.C. Lau, DPO/TM&YLW, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to use the application site (the Site) for temporary school of martial arts for a period of 3 years. The Site, with an area of about 2,450m², fell within an area zoned “Residential (Group D)” (“R(D)”) on the approved Tai Tong Outline Zoning Plan

(OZP) No. S/YL-TT/16;

- (b) according to the applicant, the proposed development on the Site comprised a single-storey structure of 4m high with a total gross floor area (GFA) of 180m². All noisy activities (including dragon and lion dance) would be confined to the indoor area and the open area would only be used for general martial arts practice. Moreover, planting would be provided along the boundary of the Site as noise barriers. The operation hours of the proposed development was from 7 p.m. to 10 p.m. from Mondays to Fridays, 12 noon to 7 p.m. on Saturdays and public holidays and no practice would be conducted on Sundays;
- (c) on 25.4.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) rejected the application for the following reasons:
 - (i) the applicant failed to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas; and
 - (ii) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications to proliferate into the “R(D)” zone causing nuisance to the rural environment of the area;
- (d) on 29.5.2014, the applicant applied for a review of the RNTPC’s decision to reject the application and submitted a written representation in support of the review application;
- (e) the justifications put forth by the applicant in support of the review application were highlighted in paragraph 3 of the Paper and summarised below:
 - (i) there were no adverse comments on or no objection to the

application from land administration, traffic, nature conservation, landscape, water supplies, fire safety, building matter, electricity and local views aspects;

- (ii) in response to the concerns of the Director of Environmental Protection (DEP), the applicant had submitted a design scheme of the proposed single-storey enclosed structure which would be built with effective noise absorbing materials;
- (iii) the applicant had also submitted a revised drainage proposal to address the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD)'s comments and undertook to construct and maintain the proposed drainage facilities;
- (iv) the provision of suitable sites for martial arts practice was inadequate. Preferred venue should be remote from major sensitive receivers or well shielded to avoid noise nuisance. As such, the Site was considered suitable for the applied use; and
- (v) approval of the application would not set an undesirable precedent for similar applications;
- (f) the Site was currently vacant and partly overgrown with vegetation. The surrounding areas were predominately rural residential in nature mixed with village houses/residential dwellings in the vicinity of the Site and some plant nursery/orchard further away;
- (g) departmental comments – comments from relevant government departments were detailed in paragraph 5 of the Paper and summarised below:
 - (i) DEP did not support the application. During his recent site visit, he found that several residential dwellings, as well as a temple,

were in close proximity to the Site. Although the applicant had provided supplementary information on the minimization of noise impact, he considered that noise nuisance was still expected to affect the nearby residents. Given the tranquillity of the surrounding environment of the Site, there was limited opportunity to have practical mitigation measures that could entirely eliminate potential noise nuisance to the nearby sensitive receivers. Hence, the proposed use would likely generate noise nuisance;

- (ii) CE/MN, DSD had no comment on the revised drainage proposal from drainage point of view. Should the application be approved, conditions requiring the submission of drainage proposal and implementation of drainage facilities should be imposed; and
- (iii) other departments consulted had no adverse comment on or no objection to the review application;
- (h) previous application - the Site was involved in one previous application. Application No. A/YL-TT/17 for residential development of five 3-storey houses containing 15 units was rejected by the Committee on 2.5.1997;
- (i) similar application - there was no similar application within the same “R(D)” zone on the OZP;
- (j) public comments - during the statutory public inspection period of the review application, a public comment was received from a Yuen Long District Council (YLDC) Member stating no comment on the application. Four public comments were received during the statutory public inspection period of the s.16 application raising objection to or concerns on the application mainly for reasons that the proposed development would affect the peaceful village environment near the Tin Hau Temple and fung shui of the area; the noise nuisance generated by dragon and lion dancing, martial arts practices and the use of drums and cymbals; and

worsening of public security with additional visitors entering the village. One commenter suspected that the Site would be used for open storage use and raised concerns on the potential disturbances; and

- (k) PlanD's view – PlanD did not support the application based on the assessment in paragraph 7 of the Paper, which were summarised below:
- (i) there was no known programme for permanent development on the Site at the moment and approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone. However, the applicant must still demonstrate that such temporary development would not create adverse environmental impact on the surrounding areas. In view of the potential environmental nuisance generated, it was considered that the proposed development was not compatible with the neighbourhood and the subject application did not warrant sympathetic consideration;
 - (ii) while the noisy activity would be confined within the proposed on-site enclosed structure (about 7% of the Site), the remaining open areas (about 93% of the Site) would be used for martial arts practice which was akin to an outdoor training ground. Furthermore, all activities would take place during sensitive hours (i.e. 7 p.m. to 10 p.m. from Mondays to Fridays, and 12 noon to 7 p.m. on Saturdays and public holidays). The activities would generate environmental nuisance to the nearby residents;
 - (iii) the Site was close to residential dwellings. Given the tranquillity of the surrounding environment of the Site, DEP considered that there was limited opportunity to have practical mitigation measures that could entirely eliminate potential noise nuisance to the nearby sensitive receivers. Given the close proximity of residential dwellings to the Site (with the nearest ones located less than 5m to

the north and east of the Site), he maintained his previous view of not supporting the application;

- (iv) it was difficult to enforce the proposed practising arrangement under the current development control mechanism; and
- (v) there was no similar application approved within the same “R(D)” zone and approval of the application would set an undesirable precedent for similar applications to proliferate into the “R(D)” zone, causing nuisance to the surrounding rural environment.

[Professor S.C. Wong arrived to join the meeting at this point.]

93. The Chairman then invited the applicant’s representative to elaborate on the application. Ms Betty S.F. Ho made the following main points:

- (a) the existing martial arts school under application, named Chiu Chung Chinese Martial Arts Gymnasium, was located on the first floor of a residential building in Yuen Long town. The building fell within the “Residential (Group A)” (“R(A)”) of the Yuen Long OZP. According to the Notes of the OZP, ‘school’ was a use always permitted on the lowest three floors of an existing building;
- (b) while activities like martial arts practice, and dragon and lion dance were conducted in the existing school premises, the applicant would like to relocate some activities of the existing school to the Site which was a remote location distant from residential dwellings;
- (c) the application was rejected by RNTPC on 25.4.2014 mainly on grounds of adverse environmental and drainage impacts on the surrounding areas and setting undesirable precedent for similar applications. To address these concerns, the applicant had submitted a revised drainage proposal and CE/MN of DSD had no comment on it. The applicant was also

willing to comply with approval conditions regarding the submission and implementation of drainage proposal. Moreover, the applicant had also proposed a number of noise mitigation measures including the construction of an enclosed structure using effective noise absorbing/insulating materials such as brick walls and mineral wool; confining all noisy activities within the enclosed structure; and provision of 2.5m high corrugated peripheral fencing and peripheral planting along the Site to further reduce the noise nuisance to the surrounding areas;

- (d) with the implementation of the above noise mitigation measures, the proposed development would unlikely cause significant noise nuisance to the residents nearby as the residential dwellings were located about 35m to the north, 15m to the east and 20m to the west of the proposed enclosed structure of the Site. Moreover, there was no major residential development adjacent to the Site and the nearest “Village Type Development” zone was located to the west of the Site across Tai Shu Ha Road West;
- (e) the applicant had also proposed to restrict the practice hours of all noisy activities including dragon and lion dance practice to non-sensitive hours between 12 noon to 7 p.m. on Saturdays and public holidays with a view to further minimising the adverse noise impact on the local residents. Other general martial arts practice would be carried out from 7 p.m. to 10 p.m. on Mondays to Fridays;
- (f) a supporting letter from the Village Representative (VR) of Tai Kei Leng Village was recently received. He supported the application mainly on the grounds that residents were used to the dragon and lion dancing practice in the village and it was a common traditional practice of Tin Hau Temple; the proposed school of martial arts was compatible with the cultural environment of the rural area; martial arts was a healthy sport activity; and the proposed development would not cause any nuisance to the residents and rural environment as the applicant had proposed

effective noise mitigation measures and confined dragon and lion dance practice to non-sensitive hours. Moreover, only one public comment from a YLDC Member of the concerned constituency expressing no comment on the application was received on the s.17 application stage. Other concerned government departments had no adverse comment on or no objection to the application;

- (g) the granting of approval for the application on a temporary basis for three years would not jeopardise the long-term planning intention of the “R(D)” zone. The applicant was willing to accept a shorter approval period of two years should the Board consider it necessary to closely monitor the situation of the Site;
- (h) PlanD’s concern on the difficulty to enforce the proposed practicing arrangement could be addressed by the imposition of relevant approval conditions. Failing to comply with these approval conditions would likely attract complaints from local residents which would result in the revocation of the planning permission; and
- (i) given that there was a genuine need for the applicant to use the Site for school development and the proposed development would have insignificant environmental impacts on the surrounding areas, the Board was urged to give sympathetic consideration to the application.

94. A Member enquired whether the Secretary for Education (SED) was consulted on the current application and whether the proposed martial arts school was classified as a ‘school’ use in accordance with the Definition of Terms used in Statutory Plans (DoT).

[Dr W.K. Yau arrived to join the meeting at this point.]

95. In reply, Mr C.C. Lau said that SED had no comment on the application as the proposed martial arts school was not subject to the Education Ordinance. With an extract of DoT shown on the visualiser, Mr Lau advised that although the martial arts school did not

require registration under the Education Ordinance, it was regarded as an institution or establishment providing interest and hobby promotion for a particular subject, and was classified as a 'school' use under the DoT.

96. In response to another Member's question on the definition of 'School (not elsewhere specified)' under Column 2 of the Notes for the "R(A)" zone of the Yuen Long OZP, Mr Lau explained that school could be either premises-based or in free-standing purpose-designed building. According to the Notes for the "R(A)" zone, 'School (in free-standing purpose-designed building)' was a Column 1 use and 'School' on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building was also permitted. For 'School (not elsewhere specified)' which was a Column 2 use, it referred to school other than the above.

97. A Member asked whether the Site would be used for relocating the existing martial arts school in Yuen Long town or for school expansion purpose. In response, Ms Betty S.F. Ho said that the martial arts school would continue to be operated in the existing premises in Yuen Long and the Site would be used mainly for some noisy activities such as dragon and lion dance practice.

[Mr Sunny L.K. Ho returned to join the meeting at this point.]

98. Another Member asked what kind of activities would be carried out in the outdoor area of the Site and whether the general martial arts practice which might create noise nuisance would be carried out in the open air. In response, Ms Ho said that the outdoor area would be mainly used for some warm-up exercises or physical training activities. There was sufficient space within the enclosed structure for general martial arts practice. She further said that the noise generated from general martial arts practice would be minimal. In response to another Member's question on the class size of the school, Ms Ho said that about 10 to 20 people would practice martial arts at one time.

99. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the

application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and DPO/TM&YLW for attending the meeting. They left the meeting at this point.

100. Ms Ho submitted the supporting letter from the VR of Tai Kei Leng Village to the Secretariat of the Board for record.

Deliberation Session

101. In response to the Chairman's question on whether the noise standard under the prevailing Noise Control Ordinance was applicable to the proposed use, Mr C.W. Tse, Deputy Director of Environmental Protection (1) said that there was no quantifiable standard to assess the noise generated from the dragon and lion practice which was classified as a kind of neighbourhood noise. Noise nuisance of such kind of activity would have to be assessed with reference to the location of the site and the characteristics of the local environment. Based on the site visit conducted by his department, it was considered that the dragon and lion dance practice which was a noise generating activity was not compatible with the residential developments and the tranquil environment in the vicinity of the Site. Moreover, the proposed enclosed structure on the Site, with an area of about 1,800 ft², might be too small for dragon dance practice. Hence, it was likely that such activity would be spilled over to the outdoor area and causing noise nuisance to the local residents and the rural environment. DEP therefore maintained his previous view that the Site was not suitable for the proposed use.

102. A Member concurred that the enclosed structure with only 4m in height might not have sufficient headroom for the dragon and lion dance practice. As the dragon and lion dance activities likely to be conducted in the outdoor area of the Site would generate excessive noise to the surrounding area, the same Member considered that the Site was not suitable for the proposed use.

103. Another Member said that the Site with an extensive outdoor area was conducive to dragon and lion dance practice. Hence, DEP's concern on the noise nuisance to the nearby residents was valid.

104. A Member said that having considered the nature and operation of the proposed martial arts school on the Site which would mainly be used for dragon and lion dance practice, the application should not be approved as the proposed use would cause adverse noise nuisance to the local residents.

105. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the applicant fails to demonstrate that the development would not generate adverse environmental impact on the surrounding areas; and
- (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications to proliferate into the “Residential (Group D)” zone causing nuisance to the rural environment of the area.”

Hong Kong District

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/H21/139

Proposed Eating Place (Restaurant) in “Residential (Group B)” zone,

Flats L & M, G/F, Tai Chow House, No. 121 Quarry Bay Street, Hong Kong

(TPB Paper No. 9706)

[The item was conducted in Cantonese.]

106. The following Members had declared interests on the item:

- Professor S.C. Wong - co-owning a flat with his spouse at Kornhill
- Mr Roger K.H. Luk - owning a flat at Kornhill
- Mr Dominic K.K. Lam - his office was located in Taikoo Place
- Ms Janice W.M. Lai - owning a flat at Yick Fat Building and a flat at Tai Hing House, Quarry Bay
- Dr Wilton W.T. Fok - owning a flat at Splendid Place, Quarry Bay
- Professor C.M. Hui - owning 50% of a flat at Oi Yin Street, Shau Kei Wan
- Miss Winnie M.W. Wong - owning a flat at Parkvale, Quarry Bay
- Mr K.K. Ling - his brother owning a property at Kornhill

107. Members noted that the properties owned by the above Members or their relatives were not in the vicinity of the application premises and considered that their interests were indirect and they should be allowed to stay in the meeting. Members also noted that Ms Janice W.M. Lai had tendered apologies for not able to attend the meeting, Dr Wilton W.T. Fok had left the meeting and Miss Winnie M.W. Wong had not yet arrived to join the meeting.

Presentation and Question Session

108. The following representative of the Planning Department (PlanD), the applicant and the applicant's representative were invited to the meeting at this point.

- Ms Ginger Kiang - District Planning Officer/Hong Kong,
(DPO/HK), PlanD
- Mr Kwok Chun Loi - Applicant
- Ms Kwok Sim Kuen - Applicant's representative

109. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/HK to brief Members on the review application.

110. With the aid of a Powerpoint presentation, Ms Ginger Kiang, DPO/HK, presented the review application and covered the following main points as detailed in the Paper:

- (a) the application premises (about 48m²) was located on G/F of an existing 10-storey residential building known as Tai Chow House. It was currently occupied by a restaurant under renovation. The entrance to the application premises was separated from that for the residential building. Visitors could gain access to the subject restaurant through its entrance/exit directly fronting Quarry Bay Street. There was another door leading to the internal corridor which was accessible to other domestic units on the same G/F of Tai Chow House;
- (b) there were three other buildings located in the vicinity (viz. Tai Sing House, Tai Hing House and Tai Lung House) of Tai Chow House. Commercial uses including a tutorial centre, a salon, a laundry, real estate agencies, renovation companies and a restaurant were found on G/F of Tai Lung House facing Quarry Bay Street;
- (c) the application was considered by the Metro Planning Committee (MPC) of the Town Planning Board (the Board) on 25.4.2014. Noting the hygiene problem raised by public commenters and the applicant being a new operator, Members considered that a cautious approach should be adopted. After deliberation, MPC decided to approve the application with conditions on a temporary basis for 3 years to monitor the operation of the

restaurant. An approval condition restricting the door leading to the internal corridor on G/F of the building for use by restaurant staff only was also imposed by MPC;

- (d) on 30.5.2014, the applicant applied for a review of the MPC's decision to approve the application on a temporary basis for a period of 3 years only;
- (e) the justifications put forth by the applicant in support of the review application were highlighted in paragraph 3 of the Paper and summarised below:
 - (i) regarding the concern on setting a precedent for similar applications of eating place at the subject building and the nearby residential developments, the applicant stated that the applied use was not incompatible with the surrounding uses according to PlanD's planning assessment. Furthermore, the pedestrian flow in the neighbourhood would unlikely sustain any additional restaurant from a business angle;
 - (ii) the applicant had operated the restaurant at the application premises for 20 years from 1970s to 1990s before passing it to others to operate. The application was submitted to facilitate transfer of restaurant licence only. The restaurant at the application premises would continue to operate if no transfer of restaurant licence was needed;
 - (iii) the applicant had been living in the area for over 30 years and he considered that the hygiene problem raised by the public commenters was an issue of the old district and improper disposal of refuse which was not created by the subject restaurant;
 - (iv) there was a stringent licensing and demerit points system for licensed food premises. Furthermore, relevant departments would conduct

regular inspections to ensure the licensed restaurants would comply with relevant ordinances. The restaurant under application had maintained a good record and no demerit points had been marked by the Food and Environmental Hygiene Department (FEHD). Various departments had no objection to the application; and

- (v) it was unfair to the property owner that only a temporary permission for 3 years was granted by the Board. The permission period was too short to allow breakeven of the investment on improving the restaurant environment and hygiene. The applicant had installed new facilities to filter oil fume and would use electric cooking as far as possible to minimise air emission;

- (f) departmental comments – comments from relevant government departments were detailed in paragraph 5 of the Paper and summarised below:
 - (i) the Director of Food and Environmental Hygiene (DFEH) had no comment on the review application. The application for transfer of licence to the applicant was approved on 16.6.2014 subject to a non-standard condition that the general restaurant licence should be valid so long as the planning permission granted by the Board was still valid. He reiterated his previous comments that in the operation of the licensed restaurant business, the licensee must comply with all the licensing requirements and conditions imposed on the licence and was also required to observe the laws, in particular the Public Health and Municipal Services Ordinance, Cap. 132 and its subsidiary legislation at all time. Non-compliance with any licensing requirements/conditions might result in the licence being cancelled, and breaches of the aforesaid legislation would render the licensee liable to prosecution and the food business licence to suspension or cancellation;

- (ii) the Director of Environmental Protection had no objection to the application and considered that major environmental damage from the proposed use was unlikely. Air, noise and water pollution issues of the subject restaurant were controlled under the Air Pollution Control Ordinance, Noise Control Ordinance and Water Pollution Control Ordinance respectively and there would be technical solutions to the potential environmental problem of the restaurant. The applicant should strictly comply with all requirements under the relevant pollution control ordinances; and
 - (iii) the District Officer (Eastern), Home Affairs Department said that her office did not receive any complaint on the subject restaurant in the past 10 years;
- (g) since the approval of the planning application, the applicant had already fulfilled the approval conditions relating to the fire service installation;
- (h) public comments – during the statutory public inspection period of the review application, no public comment was received. However, at the s.16 application stage, six public comments objecting to the application were received. They objected to the application mainly on grounds of adverse impacts of the restaurant on air (cooking fume), noise, hygiene, and public law and order aspects. One of the commenters also complained about the odour from the surface drainage and blockage of the manhole at Quarry Bay Street in front of the application premises; and
- (i) PlanD's views - PlanD had no objection to the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
- (i) the applicant sought planning permission to facilitate transfer of restaurant licence. The planning assessment at the s.16 planning application stage remained valid. In brief, the subject restaurant

was not incompatible with the surrounding uses; there were separate entrances for the residents of the building; and relevant government departments had not raised any technical concerns on the application; and

- (ii) regarding the hygiene problem raised in the public comments, FEHD reaffirmed that in the operation of the licensed restaurant business, the licensee must comply with all the licensing requirements and conditions imposed on the licence and was also required to observe the laws, in particular the Public Health and Municipal Services Ordinance, Cap. 132 and its subsidiary legislation at all time. Non-compliance with any licensing requirements/conditions might result in the licence being cancelled, and breaches of the aforesaid legislation would render the licensee liable to prosecution and the food business licence to suspension or cancellation. Hence, control on the day to day operation of the restaurant could be monitored by FEHD. Other relevant government departments had no objection on the review. Besides, no public comment was received on this review.

111. The Chairman then invited the applicant to elaborate on the application. Mr Kwok Chun Loi made the following main points:

- (a) the application premises had been used for a restaurant for over 30 years and the application was required due to the transfer of restaurant licence. The restaurant which had been in use since 1970s was not incompatible with the surrounding area;
- (b) he had operated the subject restaurant for 20 years from 1970s to 1990s before passing it to others to operate. The planning application was submitted to facilitate transfer of restaurant licence only. The restaurant at the application premises would continue to operate if no transfer of restaurant licence was needed;

- (c) substantial investment was required for maintenance and repair, as well as to improve the environment and hygiene of the restaurant. The permission period was too short to allow breakeven of the investment;
- (d) a number of measures were carried out to enhance the food safety and environment, and improve the hygiene of the restaurant including installation of new facilities to filter oil fume; renovation of the premises to improve the outlook of the restaurant; hiring of some qualified hygiene manager; enhancing staff training and encouraging staff to attend relevant courses organised by FEHD on food and environmental hygiene and licensing requirements; formulating relevant guidelines on cleanliness for compliance by staff; using electric cooking as far as practicable; and formulating regular maintenance schedule, etc.;
- (e) there was a stringent licensing and demerit points system for licensed food premises. Relevant departments would conduct regular inspections to ensure the licensed restaurants would comply with relevant ordinances. Non-compliance with any licensing requirements/conditions might result in the licence being cancelled. Imposing additional control on these aspects by another party would involve duplication of works and a waste of resources; and
- (f) it was unfair to the applicant that the decision of the Board was affected by some public comments which were not supported by facts.

[Miss Winnie M.W. Wong arrived to join the meeting at this point.]

112. In response to the Vice-chairman's question on the operation hour of the subject restaurant, Mr Kwok Chun Loi replied that the restaurant would close at around 7 p.m..

113. As the applicant and his representative had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing

procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant and his representative and DPO/HK for attending the meeting. They left the meeting at this point.

Deliberation Session

114. A Member said that according to the comments of the District Lands Officer/Hong Kong East of the Lands Department (LandsD) as set out in paragraph 5.2.3 of the Paper, the proposed restaurant on the subject lot did not comply with the lease condition which prohibited the use of the lot for offensive trade purpose. The owner of the application premises was required to apply for a licence to permit the proposed restaurant use under the lease if planning permission was granted. Although the restaurant had been operated at the application premises for more than 30 years, the development was in breach of the lease condition. Given the application premises was at a predominately residential area and objections were received from the residents of the building mainly on grounds of hygiene problem and rodent infestation at the s.16 application stage, this Member considered it prudent to maintain the previous temporary approval for three years in order to closely monitor the situation. A longer approval period might be granted in future if the applicant was able to demonstrate that the restaurant had been maintained in a satisfactory and hygienic condition.

115. Noting that no public comment was received on the application at the review application stage, the same Member enquired whether the public was consulted on the review application. In response, the Secretary said that it was a statutory requirement under the Town Planning Ordinance to publish the s.17 review application for public comment. As mentioned in paragraph 6.2 of the Paper, the application was published for public comment on 13.6.2014 and no comment was received at the end of the three-week statutory public inspection period. Public comments received at the s.16 application stage were stated in paragraph 6.1 of the Paper.

116. Regarding the hygiene concern raised by the local residents, the Vice-chairman noted from paragraph 5.2.2(d)(ii) of the Paper that in the past 12 months, FEHD received

one complaint against the restaurant for causing fly infestation in the open space outside Tai Chow House, but the complaint was found unjustified after investigation by FEHD staff. Moreover, the applicant had also claimed that the restaurant under application maintained a good record and no demerit points had been marked by FEHD.

117. Mr K.K Ling, Director of Planning, drew Members' attention to the following factors in considering the application:

- (a) the restaurant had been operated in the application premises for a very long time;
- (b) offensive trade clause was not uncommon in the lease conditions for old residential developments. As the application premises fell within an area zoned "R(B)" on the OZP, planning permission was required for the restaurant use;
- (c) there was a stringent licensing and demerit points system for licensed food premises. Concerned departments including FEHD and Environmental Protection Department (EPD) would conduct regular inspections to ensure the licensed restaurants would comply with relevant ordinances; and
- (d) the Board should consider the land use compatibility of the proposed restaurant with the surrounding land uses in the area bearing in mind that a number of commercial uses were found on the ground floor of the existing buildings in the immediate vicinity of the application premises.

118. The Chairman said that the application was approved with conditions by MPC on a temporary basis for a period of three years and the subject of the review application was whether a permanent planning approval should be granted. He said that it would be appropriate for the Board to focus on the land use compatibility of the proposed use with the surrounding area. In this regard, as explained by DPO/HK earlier, other commercial uses including restaurant were found on the ground floor of a residential building in the same street and an application for tutorial school use at another premises on the ground floor of

the same residential building was previously approved by MPC in 2002. As for other technical concerns raised by government departments and the local residents including non-compliance with lease conditions and hygiene problem of the restaurant, which were under the respective jurisdiction of the LandsD and FEHD, it would be the responsibility of the applicant to separately resolve these issues with the concerned departments.

119. A Member said that the application was approved by MPC on the consideration that the premises was currently occupied by a restaurant and the planning permission was to facilitate the transfer of restaurant licence. Having considered that there were complaints from local residents on hygiene problem, MPC considered it prudent to grant the planning permission on a temporary basis of three years in order to monitor the operation of the restaurant. Favourable consideration would be given to the renewal application in future if the applicant could demonstrate that the restaurant would not cause adverse impact on the surrounding environment.

[Mr Frankie W.C. Yeung returned to join the meeting at this point.]

120. In response to a Member's question on why planning permission was now required given that the subject restaurant had been in existence on the application premises for a long time, the Secretary said that the current application was submitted by the applicant arising from the need to apply for transfer of restaurant licence from FEHD.

121. The Vice-chairman remarked that although the complaint against the restaurant causing fly infestation was not substantiated as advised by DEFH, it was not unreasonable for the Board to grant a temporary approval for the subject application in order to monitor the operation of the restaurant.

122. Another Member considered that the granting of planning permission for the application on a temporary basis of three years was appropriate in order to monitor the situation. Such temporary approval should not have significant impact on the operation of the restaurant as the planning permission would be renewed upon future application if it had been maintained with a good hygiene condition.

123. The Chairman concluded that Members generally considered that the temporary approval previously granted by MPC was appropriate and there was no strong justification to support the review application.

124. After further deliberation, the Board decided to reject the application on review. Members then went through the reason for rejection as stated in paragraph 8.3 of the Paper and considered that it was appropriate. The reason was:

“the temporary planning permission is to allow a cautious approach to enable the Town Planning Board to monitor the operation of the restaurant in particular the hygiene aspect. The applicant has not provided strong planning justification for a departure from the Metro Planning Committee’s decision.”

Sha Tin, Tai Po and North District

Agenda Item 6

[Open Meeting (Presentation and Questions Session)]

Review of Application No. A/NE-FTA/142

Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years in “Agriculture” zone, Lot 203 RP in D.D. 52, Sheung Shui Wa Shan, Sheung Shui, New Territories

(TPB Paper No. 9709)

[The item was conducted in Cantonese]

Presentation and Question Session

125. The following representative of the Planning Department (PlanD) and the applicant were invited to the meeting at this point.

Mr C.K. Soh - District Planning Officer/Sha Tin, Tai Po and North (DPO/STN), PlanD

Mr Liu Chi Wai - Applicant

126. The Chairman extended a welcome and invited DPO/STN to brief Members on the review application.

127. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to use the application site (the Site) for proposed temporary open storage of construction materials for a period of three years. The Site fell within an area zoned “Agriculture” (“AGR”) on the draft Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/13;
- (b) on 25.4.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
 - (i) the application was not in line with the planning intention of the “AGR” zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission to justify a departure from such planning intention, even on a temporary basis;
 - (ii) the application did not comply with the Town Planning Board Guidelines No. 13E (TPB PG-No. 13E) in that there was no previous planning approval granted at the Site; there were adverse departmental comments on the application; and the applicant had failed to demonstrate that the development would have no adverse environmental impact on the surrounding area; and

- (iii) approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area;
- (c) on 28.5.2014, the applicant applied for a review of the RNTPC’s decision to reject the application but had not submitted any written representation in support of the review;
- (d) the Site was mostly formed, vacant, deposited with some miscellaneous items and parked with lorries, and was accessible from Man Kam To Road via a non-standard local track. It formed part of an area which was subject to planning enforcement action for unauthorized storage use (including deposit of containers) and was under close monitoring according to the established enforcement procedures;
- (e) the Site was surrounded by vacant land, tree groups and active/fallow agricultural land to its west, south and east and active agricultural activities and domestic structures were found to its further south. Lorry park, warehouses and logistics company were found to the north of the Site and a wooded “Green Belt” was found to its further north;
- (f) departmental comments – comments from relevant government departments were detailed in paragraph 5 of the Paper and summarised below:
 - (i) the Director of Agriculture, Fisheries and Conservation (DAFC) maintained her views that the application was not supported from the agricultural development point of view as the Site was of high potential for agricultural rehabilitation and it could be used as plant nursery or greenhouse use;

- (ii) the Commissioner for Transport maintained his previous views that the application could be tolerated from traffic engineering viewpoint as the applicant had provided further information regarding vehicular access arrangement such as estimated average daily vehicular trip to/from the Site and loading/unloading/manoeuvring arrangement within the Site;
 - (iii) the Director of Environmental Protection (DEP) maintained his views that he did not support the application as there were domestic structures in the vicinity of the Site with the closest one located at about 30m to the south of the Site; and
 - (iv) other concerned government departments had no adverse comment on the review application;
- (g) previous application - there was no previous application at the Site;
- (h) similar application - there were eight similar applications for temporary open storage uses within or partly within the same “AGR” zone in the vicinity of the Site in Fu Tei Au area:
- (i) three applications (No. A/NE-FTA/76, 103 and 106) were allowed/approved with conditions by the Town Planning Appeal Board or by RNTPC in 2008 and 2011 mainly on the considerations that the proposed development would not adversely affect the existing traffic on the access road; most of the government departments had no adverse comments or their concerns could be addressed by imposition of relevant approval conditions; the proposed developments were considered not incompatible with the surrounding environment and previous approval for similar open storage use had been granted at the sites; and

- (ii) five applications (No. A/DPA/NE-FTA/13, 15, 21, 30, and A/NE-FTA/71) involving four sites were rejected by RNTPC or by the Board on review between 1992 and 2006 mainly on the grounds that the proposed developments were incompatible with the planning intention of “AGR” zone and the surrounding area; no information was provided to demonstrate that the proposed developments would have insignificant impacts; and the applications did not comply with TPB PG-No. 13E for ‘Application for Open Storage and Port Back-up Uses’;

- (i) public comments – during the statutory public inspection period of the review application, one public comment submitted by Designing Hong Kong Limited was received. The commenter objected to the application mainly on the grounds that the proposed development was incompatible with the planning intention of the “AGR” zone and the surrounding environment; the approval of the application would lead to degradation of the land and environment; and no traffic or environmental assessment had been included in the application to assess the possible impacts on the surrounding areas; and

- (j) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 6 of the Paper, which were summarised below:
 - (i) the applicant had not submitted any written representation to support the review application. Since there had been no major changes in the planning circumstances of the case, the previous considerations and assessment at the s.16 application stage remained valid;

 - (ii) the application was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential

for rehabilitation for cultivation and other agricultural purposes. The applicant had not provided convincing planning justification to warrant a departure from the planning intention of the “AGR” zone. DAFC did not support the application as the Site had high potential for agricultural rehabilitation;

- (iii) the Site was situated in an area of rural landscape character dominated by farmland, tree groups, scattered village houses and open storage use. However, it was in close proximity to the existing domestic structures to the south and the closest one was about 30m away. The proposed open storage use was likely to have adverse environmental impact to the residents nearby. In this regard, DEP did not support the application. Although there were some open storage/workshop/logistics company uses located to the north of the Site, they were mostly unauthorised development subject to enforcement action by the Planning Authority;

- (iv) the application did not comply with the TPB PG-No. 13E in that the Site fell within Category 3 areas where application would normally not be favourably considered unless the applications were on sites with previous planning approvals. There would be a general presumption against development on sites of less than 1,000m² for open storage uses in rural area in order to prevent the further proliferation of small sites in rural areas. The Site was not subject to any previous planning approval for similar open storage use and the site area was about 783m² only. The applicant had also failed to demonstrate that the proposed development would not have adverse environmental impact on the surrounding area. Approval of the application would set an undesirable precedent for similar applications in the “AGR” zone. The cumulative effect of approving such similar applications would result in adverse impact on the environment of the area; and

- (v) there was one adverse public comment on the review application concerning the planning intention of the “AGR” zone, reduction of agricultural land, and no technical assessments had been submitted by the applicant to demonstrate that the proposed development would not result in adverse impacts on the surrounding areas.

128. The Chairman then invited the applicant to elaborate on the application. Mr Liu Chi Wai made the following main points:

- (a) the Site was surrounded by open storage of recycling materials and warehouse. The proposed temporary open storage use would not have adverse impact on the surrounding area;
- (b) the Site had been left vacant for many years. Its potential for agricultural rehabilitation was low as no one was willing to use the Site for agricultural activities;
- (c) as the Site was unused and unfenced, illegal dumping activities by others were frequently found on the Site; and
- (d) the existing non-standard local track serving the area would be properly paved should the Site and its surrounding area be approved for open storage/warehouse uses.

129. A Member asked about the location of residential structures in the vicinity of the Site and whether the warehouse to the west of the Site was approved by the Board. Referring to Plan R-2 of the Paper and an aerial photo, Mr C.K. Soh replied that a number of residential structures were found in the south, southeast and northwest of the Site. With reference to Plan R-1 of the Paper, Mr Soh continued to say that among the eight similar applications within the same “AGR” zone in the vicinity of the Site, three applications for temporary open storage of construction materials were previously allowed by the Town Planning Appeal Board or approved by RNTPC, but they were located to the further west of the Site.

130. In response to the Chairman's question on whether Application No. A/NE-FTA/71 was rejected by RNTPC, Mr Soh replied in the affirmative.

131. As the applicant had no further comment to make and Members had no further question to raise, the Chairman informed him that the hearing procedures for the review had been completed and the Board would further deliberate on the application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant and DPO/STN for attending the meeting. They left the meeting at this point.

Deliberation Session

132. Given that there was no change in planning circumstances since the rejection of the application, Members generally considered that there was no strong justification for a deviation from the previous RNTPC's decision.

133. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the application is not in line with the planning intention of the “Agriculture” (“AGR”) zone for the area which is primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission to justify a departure from such planning intention, even on a temporary basis;
- (b) the application does not comply with the Town Planning Board Guidelines No. 13E in that there is no previous planning approval granted at the Site; there are adverse departmental comments on the application; and the applicant has failed to demonstrate that the development would have no adverse environmental impact on the surrounding area; and

- (c) approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.”

[Professor Eddie C.M. Hui Left the meeting at this point.]

Agenda Item 7

[Open Meeting (Presentation and Questions Session)]

Review of Application No. A/NE-LT/502

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” zones, Lot 271 S.A ss.4 S.A in D.D. 10, Pak Ngau Shek Ha Tsuen, Tai Po

(TPB Paper No. 9710)

Presentation and Question Session

134. Mr C. K. Soh, District Planning Officer/Sha Tin, Tai Po and North, Planning Department (DPO/STN, PlanD) was invited to the meeting at this point.

135. The Chairman extended a welcome and said that the applicant had indicated that he would not attend the meeting. As sufficient notice had been given to the applicant to invite him to attend the meeting, Members agreed to proceed with the hearing in the absence of the applicant. He then invited DPO/STN to brief Members on the review application.

136. Members noted that three replacement pages (p. 1, 3 and 10) rectifying the typographical errors of the title, paragraphs 4.8 and 7.2 of the Paper were tabled at the meeting.

137. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to build a house (New Territories Exempted House (NTEH)) on the application site (the Site) which was zoned “Village Type Development” (“V”) (74%) and “Agriculture” (“AGR”) (26%) on the approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11;
- (b) the Site was generally flat without vegetation and accessible via a local track. It was located on the periphery of the “V” zone of Ha Pak Ngau Shek and entirely outside the village ‘environ’ (‘VE’) of Sheung Pak Ngau Shek and Ha Pak Ngau Shek Tsuen;
- (c) the surrounding areas were predominantly rural in character with scattered village houses and farmlands. There were constructions works for Small Houses within the “V” zone to the immediate west of the Site, and a stream was about 15m to the southwest of the Site;
- (d) on 25.4.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
 - (i) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories in that there was still sufficient land available within the “V” zone to fully meet the future Small House demand; and
 - (ii) the applicant failed to demonstrate in the submission why there was no alternative land available within areas zoned “V” for the proposed development;
- (e) on 27.5.2014, the applicant applied for review of the RNTPC’s decision to reject the application. The applicant had not provided any justifications in support of the review of application;

- (f) departmental comments – comments from concerned departments were detailed in paragraph 5 of the Paper and summarised below:
- (i) the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) had no objection to the review application and advised that the latest outstanding Small House application and 10-year Small House demand forecast figures were 14 and 100 respectively;
 - (ii) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from agricultural point of view as there were active agricultural activities in the vicinity and the Site itself had high potential for rehabilitation of agricultural activities; and
 - (iii) other concerned departments consulted including the Director of Environmental Protection (DEP), the Chief Engineer/Development (2), Water Supplies Department (CE(Dev)2, WSD), the Chief Town Planner/Urban Design & Landscape, PlanD and the District Officer/Tai Po, Home Affairs Department had no objection to or no adverse comments on the review application;
- (g) previous application - the Site was the subject of a previous planning application No. A/NE-LT/470 for four proposed NTEH/Small Houses which was partially approved by RNTPC on 24.5.2013. The three proposed Small Houses were approved mainly on sympathetic grounds as 96%, 100% and 100% of the respective proposed Small House footprints were within the “V” zone, notwithstanding that the application site was entirely outside the ‘VE’ and there was no general shortage of land within the “V” zone. The last proposed Small House at Lot 271 S.A ss.4 S.A (same as the current Site), with only 73% of its footprint within the “V” zone, was rejected mainly on the grounds of non-compliance with the

Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (Interim Criteria) in that there was still sufficient land available within the “V” zone for Small House development and the applicant failed to demonstrate in the submission why there was no alternative land available for the proposed development. As compared with the previous application, the location of the proposed Small House on the Site was shifted westward so that more than 80% of its footprint fell within the “V” zone;

- (h) similar application - there were two similar applications (No. A/NE-LT/376 and 377), each for development of one Small House, within the same “AGR” zone. The applications were rejected by RNTPC on 7.3.2008 mainly on the grounds that they were not in line with the planning intention of the “AGR” zone; the application sites were entirely outside the “V” zone and the ‘VE’; the proposed houses were not able to be connected to the planned sewerage system in the area and there was no information to demonstrate the proposed developments would have no adverse impact on water quality in the area;
- (i) public comment - during the statutory public inspection period of the review application, one public comment from villagers of Pak Ngau Shek was received. The villagers objected to the application mainly on the grounds that the applicant was not an indigenous villager of Pak Ngau Shek and the proposed development would cause adverse traffic, sewerage and environmental impacts on the surrounding area; and
- (j) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) the Site fell partly within the “AGR” zone (26%) on the approved Lam Tsuen OZP No. S/NE-LT/11. The proposed Small House was not in line with the planning intention of the “AGR” zone

which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC maintained his view of not supporting the application as the Site had high potential for rehabilitation of agricultural activities;

- (ii) the Site was located on the periphery of the “V” zone in Pak Ngau Shek Ha and the village cluster was about 45m to the west of the Site. There were also village houses under construction to the immediate west of the Site. It was considered that the proposed Small House was not incompatible with the surrounding rural environment;
- (iii) DLO/TP, LandsD advised that the current number of outstanding Small House applications for Sheung Pak Ngau Shek and Ha Pak Ngau Shek was 14 instead of 16 at the time of s.16 application while the 10-year Small House demand forecast for the concerned villages remained unchanged at 100. From the latest estimate by PlanD, about 4.3 ha of land (or equivalent to about 172 Small House sites) were available within the “V” zone of Sheung Pak Ngau Shek and Ha Pak Ngau Shek. Therefore, there was sufficient land in meeting the existing and future Small House demand in the concerned “V” zone (about 2.85 ha or equivalent to about 114 Small House sites). The proposed Small House did not meet the Interim Criteria in that there was no general shortage of land within the “V” zone to meet Small House demand;
- (iv) although other departments consulted including DEP, CE/Dev(2) of WSD and the Commissioner for Transport had no adverse comment on or no objection to the application, the application was not in line with the Interim Criteria in that there was no general shortage of land within the “V” zone to meet the future Small

House demand. Also, the applicant had not provided any justifications in support of the review application to demonstrate why there was no alternative land available within areas zoned “V” for the proposed development. There had been no significant material change in planning circumstances for the Site and its surrounding areas since the rejection of the application, there was no planning justification to warrant a departure from the RNTPC’s previous decision.

138. As the presentation from PlanD’s representative had been completed, the Chairman invited questions from Members. As Members had no question, the Chairman thanked DPO/STN for attending the meeting. He left the meeting at this point.

Deliberation Session

139. Noting that there had been no significant change in planning circumstances for the Site and its surrounding areas since the rejection of the application and the applicant had not submitted any written representation in support of the review application, Members considered that there was no planning justification to warrant a departure from the previous decision of RNTPC.

140. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories in that there is still sufficient land available within the “Village Type Development” (“V”) zone to fully meet the future Small House demand; and

- (b) the applicant fails to demonstrate in the submission why there is no alternative land available within areas zoned “V” for the proposed development.”

141. As the applicants and their representatives of agenda items 8 to 15 were not yet arrived, the meeting was adjourned for a short break.

[Mr H.W. Cheung, Mr Lincoln L.H. Huang and Dr W.K. Yau left the meeting at this point.]

Agenda Items 8 to 15

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-TK/486

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lots 138 S.A ss.2 S.B and 138 S.B ss.3 in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/487

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lots 138 S.A ss.2 S.A in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/488

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lots 138 S.A ss.1 R.P, 138 S.B ss.1 and 145 S.C. in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/489

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lots 138 S.A ss.1 S.B and 145 S.B in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/490

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lots 138 S.A ss.1 S.A and 145 S.A in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/491

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lot 146 in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/492

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lots 149 and 150 S.A in D.D. 28, Lung Mei, Tai Po

Review of Application No. A/NE-TK/493

Proposed House (New Territories Exempted House – Small House) in “Green Belt” and “Village Type Development” zones, Lot 150 RP in D.D. 28 and adjoining Government Land, Lung Mei, Tai Po

(TPB Paper No. 9725)

[The items were conducted in Cantonese]

142. Noting that the eight applications under Agenda Items 8 to 15 were similar in nature and the application sites (the Sites) were located in close proximity to each other, Members agreed that the eight applications should be considered together.

143. The following Members had declared interests on the items:

Mr Stanley Y.F. Wong - co-owning a property with his spouse in Tai Po District

Dr W.K. Yau - being the Honorary Environmental Consultant of the Tai Po Rural Committee which had submitted a public comment to the s.16 application

144. Members noted that the property owned by Mr Stanley Y.F. Wong was not in the vicinity of the Sites and considered that his interest was indirect and he should be allowed to stay in the meeting. Members also noted that Dr W.K. Yau had already left the meeting.

145. The following representative of the Planning Department (PlanD) and the applicants' representatives were invited to the meeting at this point:

Mr C.K. Soh	-	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD
Mr Wong Sun Wo]		
William		
Mr Chan Tin Sung]		Applicants' representatives
Mr Lam Hon Sum]		
Mr Cheung Kwok Wah]		

146. The Chairman extended a welcome and invited DPO/STN to brief Members on the background of the Paper. Members noted that two replacement pages (p.6 and 12) rectifying the typographical errors of paragraphs 5.2.1(c) and (d) and 7.6 of the Paper were tabled at the meeting.

147. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in the Paper:

Background

- (a) the eight applicants sought planning permission to build a proposed house (New Territories Exempted House (NTEH) - Small House) on each of the Sites). The Sites of Applications No. A/NE-TK/486 to 492 fell within "Green Belt" ("GB") and that of Application No. A/NE-TK/493 fell mostly within "GB" (92%) and partly within "Village Type Development" ("V") (8%) on the approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/17;
- (b) on 17.1.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject each of the applications for the following reasons:

- (i) the proposed development was not in line with the planning intention of the “Green Belt” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
 - (ii) the proposed development did not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance in that the proposed development would involve extensive clearance of existing natural vegetation and affect the existing natural landscape on the surrounding environment; and
 - (iii) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape and water quality impacts on the surrounding areas;
- (c) on 25.2.2014, the applicants applied for a review of the RNTPC’s decision to reject the applications but the applicants’ representative had not provided any justifications in support of the review applications;
- (d) the Sites were located on densely vegetated natural hillside covered with some shrubs and trees and were about 45m away from Tai Po Lung Mei Road leading to Ting Kok Road. The Sites were entirely within the village ‘environs’ (‘VE’) of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk except the Sites of Applications No. A/NE-TK/486 and 487 which were partly within ‘VE’;
- (e) the surrounding areas were mainly rural in character. There were village houses of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk located

to their south. A natural stream course flowing from north to south was located to the immediate east of the Sites. The areas to the north and east of the Sites were woodland areas covered by mature trees and dense vegetation;

(f) departmental comments – comments from concerned departments were detailed in paragraph 5 of the Paper and summarised below:

(i) the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) had no further comment on the review applications and advised that the latest outstanding Small House application of Lung Mei and Tai Mei Tuk were 38 and 33 respectively while the number of 10-year Small House demand was 70 and 136 respectively. He maintained his no-objection to Applications A/NE-TK/487 to 493 as the Sites fell wholly/more than 50% within the 'VE' boundary of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk. He also had no objection to Application No. A/NE-TK/486 provided that the applicant was to carve out the application lots in such a way that more than 50% of the application lots fell within the 'VE' boundary. The applicants were indigenous villagers as confirmed by the Indigenous Inhabitant Representatives (IIRs) of the concerned villages and eligible to apply for building a Small House within their own villages or in a village within the same 'Heung' provided that there was no local objection;

(ii) the Director of Environmental Protection (DEP) advised that the sites were outside the water gathering ground (WGG) but he had concerns over the potential water quality impact on the nearby Lung Mei area arising from the sewage discharge of the proposed houses if connection to the planned sewerage system was not feasible. There was an existing stream running immediately adjacent to the proposed eight houses and its outlet was just about 200m away from Lung Mei Beach. He therefore did not support

the applications unless the applicants could (i) connect the houses to the future public sewer in the vicinity; and (ii) the construction of houses should not be commenced before the completion of the planned sewerage system;

- (iii) the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD objected to the applications from landscape planning point of view. The hillside area of Pat Sin Leng to the north of the Sites were covered by dense mature woodland which formed a natural backdrop. The landscape quality within and beyond the subject "GB" was high and the area was sensitive to development. The Sites were situated on a sloped surface vegetated with trees and shrubs. The construction of Small Houses on slope would require significant site formation work and thus resulted in deterioration of quality landscape, tree felling and vegetation loss. Also, the "GB" zone acted as a significant buffer between village developments and undisturbed hillside of Pat Sin Leng. Approval of the applications was likely to encourage similar developments extending northward in the "GB" and further jeopardize the high landscape quality of the Pat Sin Leng hillside; and
- (iv) other concerned government departments including the Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD); the Chief Engineer/Mainland North of Drainage Services Department (CE/MD, DSD) and the Director of Agriculture, Fisheries and Conservation (DAFC) had maintained their no adverse comment on or no objection to the review applications;
- (g) previous application – the Sites under applications formed part of a previous planning application No. A/NE-TK/426 for eight Small House developments submitted by the same applicants. The application was rejected on review by the Board on 9.8.2013 for reasons of being not in

line with the planning intention of the “GB” zone; not complying with the Town Planning Board Guidelines No. 10 for Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance (TPB PG-No. 10) in that the proposed development would involve extensive clearance of existing natural vegetation and affect the existing natural landscape on the surrounding environment; and not complying with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (Interim Criteria) in that the proposed development would cause adverse landscape and sewerage impacts on the surrounding areas;

- (h) similar application – there were 12 similar applications involving eight sites within the same “V” and “GB” zones on the OZP. Applications No. A/NE-TK/140, 192, 259 to 262, 362, 363, 367 and 373 were approved between 2002 and 2011 mainly on the consideration of compliance with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘VE’; and there was a shortage of land in meeting the Small House demand. Applications No. A/NE-TK/440 and 450 were approved in 2013 mainly on consideration of compliance with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘VE’; there was a shortage of land in meeting the Small House demand; there was no significant adverse impact on existing landscape resources; and the applications were considered as complied with the TPB PG-No.10 for development within “GB” zone;
- (i) public comment - during the statutory public inspection period, a total of 23 comments were received for each of the Applications No. A/NE-TK/486 to 492 of which 22 were opposing comments. 25 comments were received for Application No. A/NE-TK/493 of which 24 were opposing comments. The commenters objected to the applications mainly on grounds that the proposed developments were not in line with the planning intention of “GB” zone; the proposed Small Houses should

be kept within the “V” zone and the “GB” zone should be left untouched; the Sites were on a well vegetated slope and adjacent to a stream, and the proposed Small Houses would cause ecological impacts on the area when sewage was discharged into the stream; the Sites were close to nearby residential development which would be affected by noise and air pollution during construction; the proposed developments would cause adverse environmental, landscape, drainage, sewerage, geotechnical and ecological impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent for similar applications within the “GB” zone resulting in cumulative impacts on the area. There was one supporting comment on Applications No. A/NE-TK/486 to 493 submitted by the Lung Mei Tsuen Rural Committee mainly on grounds that the applicants intended to improve the life of their families and sympathetic consideration should be given; the Government was rezoning “GB” areas for housing development and the Board should consider approving the applications under the same principle; there were successful applications in the vicinity; and the construction of the Small Houses would enhance the environment and stabilize the slope;

- (j) PlanD’s views - PlanD did not support the review applications based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) the Site of Application No. A/NE-TK/493 fell partly within “GB” zone (about 92%) and partly within “V” zone (about 8%), whilst the Sites of Applications No. A/NE-TK/486 to 492 fell entirely within “GB” zone. The proposed Small House developments were not in line with the planning intention of “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;

- (ii) in the review applications, DLO/TP, LandsD advised that the current number of outstanding Small House applications for Lung Mei and Tai Mei Tuk were 38 and 33 respectively instead of 53 and 28 at the time of s.16 application while the 10-year Small House demand forecast for the concerned villages remained unchanged at 70 and 136 respectively. Based on the latest estimate by PlanD, about 3.31 ha of land (or equivalent to about 132 Small House sites) were available within the “V” zone of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk. Therefore, the land available could not fully meet the future Small House demand of about 6.93 ha (or equivalent to about 277 Small House sites);

- (iii) the Sites were located on densely vegetated natural hillside covered with shrubs and trees. The surrounding areas were dense mature woodland and shrubs. CTP/UD&L, PlanD maintained his view of not supporting the applications as the construction of the proposed Small Houses and the associated site formation works would likely involve tree felling and clearance of vegetation and thus resulted in deterioration of quality landscape and vegetation loss. The approval of the applications would likely encourage similar development in the “GB” zone and further jeopardize the high landscape quality of the Pat Sin Leng hillside;

- (iv) DEP had concerns on the potential water quality impact on the nearby Lung Mei area arising from sewage discharge of the proposed Small Houses. The applicants had failed to demonstrate in the review applications that the proposed developments would have no adverse water quality impacts on the surrounding areas. DEP maintained his view of not supporting the review applications;

- (v) in view of the above, the applications were not in line with the Interim Criteria and the TPB-PG No. 10 in that the proposed Small

Houses developments would cause adverse landscape and water quality impacts on the surrounding areas;

- (vi) given that the applicants had not provided any justifications in support to the review applications to address the landscape and water quality impacts, and there had been no material change in planning circumstances for the Sites and their surrounding areas since the rejection of the applications, there was no planning justification to warrant a departure from the previous decision of RNTPC; and
- (vii) the planning circumstances for the 12 similar applications approved between 2002 and 2013 were different from the current applications. The applications were approved mainly on the grounds that those sites were on flat land and did not involve extensive tree felling and vegetation clearance, hence the applications were in compliance with the Interim Criteria and the TPB-PG No. 10 in that there was no significant adverse impact on the surrounding landscape resources.

148. The Chairman then invited the applicants' representatives to elaborate on the applications. Mr Chan Tin Sung made the following main points:

- (a) he was an IIR of Lung Mei Tsuen and was not a stakeholder of the applications;
- (b) the Sites were used to be agricultural land in the past. However, since the construction of the Plover Cover Reservoir by the Government, the source of water supply for irrigation was cut off rendering the Sites no longer suitable for agricultural activities. Hence, the potential for agricultural rehabilitation on the Sites was very low;
- (c) the area to the north of the Sites within the same "GB" zone was a steep

slope characterised by a waterfall in the past. The level difference between the Sites and its northern area was about 70m. The topography to the north of the Sites had provided a natural barrier preventing Small House developments from extending northward beyond the Sites;

- (d) given that the implementation of public sewerage facilities for the Lung Mei area had been largely completed, it would be feasible for the future Small Houses on the Sites to connect to the public sewers in the area. In this regard, the proposed Small House developments would not have adverse sewerage impacts on the surrounding area; and
- (e) a number of similar applications for Small House development in the vicinity of the Sites were previously approved by the Board. Approval of the applications was compatible with the surrounding land uses and would improve the general environment of the area.

149. Mr Wong Sun Wo William made the following main points:

- (a) although the Sites fell within an area zoned “GB” on the OZP, the Sites were mostly within the ‘VE’ of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk;
- (b) according to the Small House Policy, an indigenous villager was entitled to build a Small House within the ‘VE’ of an indigenous village. The designation of the Sites as “GB” on the OZP which required the submission of planning application for Small House development had deprived the applicants of their traditional right; and
- (c) there was no other private or government land available in the “V” zone for Small House developments. The applicants would carry out site formation works within the Sites and a small retaining wall would be constructed to minimise adverse impact on the surrounding environment. Adequate drainage facilities would be provided and the proposed Small

Houses on the Sites would be properly connected to the public sewers to avoid causing pollution to the water courses in the vicinity.

150. Mr Cheung Kwok Wah made the following main points:

- (a) he was an IIR of Lung Mei Tsuen and a co-opted member of the Traffic and Transport Committee of the Tai Po District Council;
- (b) he could not understand why only one supporting comment was received for the applications, as mentioned in DPO/STN's presentation earlier, when he had submitted a large number of supporting letters which were signed by the indigenous villagers of Lung Mei Tsuen and the Lung Mei Tsuen Rural Committee;
- (c) given that the Sites for Applications No. A/NE-TK/486 and 487 were already at the periphery of the "VE", the area to the north was outside the 'VE' and no Small House development would be approved. Hence, approval of the applications would not result in the further encroachment of Small House development to the north of the Sites in the "GB" zone;
- (d) according to the information provided by PlanD, there was insufficient land within the "V" zone to meet the outstanding Small House demand of the indigenous villagers, and concerned government departments including DLO/TP, LandsD, CE/Dev(2), WSD, CE/MN, DSD, and DAFC had no adverse comment on the applications and DEP also did not have objection to the applications provided that proposed Small Houses could be connected to the future sewerage system in the vicinity;
- (e) seven out of the eight applications were cross-village applications under the Small House policy. The applications were supported by the Lung Mei Tsuen Rural Committee mainly on consideration that the applicants intended to improve the life of their families and hence sympathetic consideration should be given;

- (f) regarding the objection raised by CTP/UD&L of PlanD, the Sites were overgrown with weeds and shrubs and no mature or valuable trees were found. The applicants had promised the local villagers that landscape plantings would be provided within the Sites to improve the general environment of the area. Noting that four other similar applications for Small House developments on sloping grounds, which would also involve the construction of retaining wall, were previously approved by RNTPC, there was no reason for the Board not to approve the current applications. The construction of retaining wall could enhance the stability of the existing slopes; and
- (g) consideration should be given to approving the applications to satisfy the Small House demand of these indigenous villagers on one hand and to improve the general environment of the Lung Mei area on the other.

151. In response to a Member's query on the rationale for approving other similar applications in the vicinity of the Sites, Mr C.K. Soh said that those approved Small House applications to the west of the Sites were located on flat land which had been formed and with no vegetation, and those to east of the Sites were also located on flat land at the toe of the hillslopes. The proposed Small House developments on those sites would not have adverse impact on the surrounding landscape resources. However, the Sites were situated on a sloped surface vegetated with trees and shrubs and the construction of Small Houses on slope would require substantial site formation works which might extend beyond the site boundary, this would result in tree felling and vegetation loss and cause significant landscape impact on the surrounding area.

152. A Member asked why a vegetated steep slope not suitable for small house development was included within the "V" zone of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk. Mr Soh said that the "V" zone was a broad land-use zoning with its boundary drawn up taking account of various considerations. In estimating the availability of land within the "V" zone for Small House development, areas of difficult terrain and dense vegetation were excluded. For the current applications, the estimated land available within

the “V” zone (about 3.31 ha) had already excluded this well-vegetated steep slope. Mr Cheung Kwok Wah supplemented that the said steep slope with abundant mature trees within the “V” zone was indeed not suitable for development. Hence, there was limited land available in the “V” zone for Small House development by the indigenous villagers of Lung Mei Tsuen. For the Sites, it was technically feasible for Small Houses development with the construction of retaining wall. This would help to improve the slope stability of the area thus benefitting the local villagers. Should the Sites remain undeveloped, it would not be financially viable for the local villagers to just construct a retaining wall.

[Dr C.P. Lau left the meeting at this point.]

153. In response to a Member’s question on which applications were cross-village applications, Mr Cheung Kwok Wah said that all except Application No. A/NE-TK/493 were cross-village applications. Given that the land of six ‘Heungs’ had been resumed by the Government for the construction of Plover Cove Reservoir, there was insufficient land for the development of Small Houses by the indigenous villagers of these six ‘Heungs’. Should these villagers wish to develop Small House, they had to purchase land from the indigenous villagers of other villages and sought the consent of the rural committee of the concerned village. For the subject case, consent for cross-village applications had been given to the applicants.

154. Noting that one of the applicants’ representatives had raised a query on the number of public comments received on the applications, the Chairman asked DPO/STN to clarify the discrepancy. In reply, Mr Soh said that the number of public comments as mentioned in his presentation only included those received on the review applications while other supporting public comments stated in Mr Cheung’s presentation were on the s.16 applications.

155. Referring to the supporting letter dated 15.12.2013 from the Lung Mei Tsuen Rural Committee, the Vice-chairman invited the applicants’ representatives to further explain the meaning of paragraph 2 of the letter. In response, Mr Cheung said that the car park mentioned in the letter was located on a piece of government land to the southeast of the Site of Application No. A/NE-TK/493. He suspected that most of the opposing public

comments to the applications were made by the existing users of the car park who were not the indigenous villagers of the village. While they raised objection to the applications mainly on grounds of adverse environmental and ecological impacts on the surrounding area, their underlying reason was to ensure that their usage of the car park would not be affected.

156. Another Member asked the applicants' representatives to further elaborate on the relationship between the Small House developments on the Sites and the existing car park as they were on different sites. Mr Cheung said that since there was insufficient land for Small House development, some indigenous villagers of Lung Mei Tsuen had proposed to develop four Small Houses on the car park site. The rejection of the current eight applications due to opposing public comments would set a precedent for future rejection of other similar applications in the area including the car park site.

157. The same Member continued to ask why Lung Mei Tsuen Rural Committee would welcome cross-village Small House applications given that the land within the "V" zone of Lung Mei Tsuen was insufficient for its own villagers. Mr Cheung said that they were reluctant to give the consent but had to accept the reality that a number of private lots within his village had already been sold to other villagers.

158. As the applicants' representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicants of the Board's decision in due course. The Chairman thanked the applicants' representatives and DPO/STN for attending the meeting. They left the meeting at this point.

Deliberation Session

159. A Member said that the applications were not in line with the planning intention of the "GB" zone and there was presumption against development in the "GB" zone. There were no strong planning merits to justify a deviation from the planning intention. Moreover, the development of Small Houses on slopes would involve extensive site formation works and construction of retaining wall. This would result in significant

adverse impact on the surrounding environment.

160. The Vice-chairman said that as revealed in the presentation and question session, the existing “V” zone of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk might have been taken up by Small House developments by a substantial number of non-local indigenous villagers. In general, according to the Interim Criteria, sympathetic consideration might be given to the applications if more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone to meet the existing and future Small House demand. However, having considered that the combination of two factors, namely (i) numerous cross-village Small House applications in the Lung Mei area; and (ii) the selling of private land by local indigenous villagers to other non-local indigenous villagers, would aggravate the shortage of land in the subject “V” zone to meet the Small House demand of the local villagers, sympathetic consideration should not be given to the applications. The approval of these applications would likely encourage the proliferation of Small House developments into this area and further jeopardise the landscape value of the “GB” zone. The Vice-chairman considered that the issue of cross-village Small House applications, which was not uncommon in other areas, should be reviewed at the policy level. A Member concurred. The Chairman clarified that cross-village Small House applications were permitted under the prevailing Small House policy and the forecast of future Small House demand was estimated on the basis of each indigenous village.

161. Two Members considered that there was no change in planning circumstances of the applications to justify a departure from the previous decision of RNTPC. One of them also opined that cross-village Small House applications within the “GB” zone should not be encouraged.

162. Another Member also agreed that the applications should not be approved for the reasons that the applicants had not submitted any new information to support the review applications; land was still available (about 132 Small House sites) within the “V” zone to meet the existing Small House demand; and unlike other similar applications previously approved in the vicinity, the Sites were located on a vegetated slope and would require extensive site formation works as well as construction of retaining structure which would

cause adverse visual and landscape impacts on the surrounding area.

163. Another Member said that there was no strong justification to approve the review applications which were not in line with the planning intention of the “GB” zone. Consideration might also be given to adopting a more stringent approach in considering future Small House applications within the “GB” zone involving flat land.

164. A Member opined that in considering Small House applications, the Board should focus on the land use aspect and whether they were cross-village Small House applications should not be a rejection reason.

165. The Chairman concluded Members’ views that the applications should not be approved as there was no planning justification to warrant a departure from the previous decision of RNTPC.

166. After further deliberation, the Board decided to reject the applications on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone;
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’ in that the proposed development would involve extensive clearance of existing natural vegetation and affect the existing natural landscape on the surrounding environment; and
- (c) the proposed development does not comply with the Interim Criteria for

Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape and water quality impacts on the surrounding areas.”

Agenda Item 21

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

167. There being no other business, the meeting closed at 4:50 p.m..